S. HRG. 99-615

H.R. 2787, A BILL TO EXTEND THE SBA PILOT PROGRAMS UNDER SECTION 8 OF THE SMALL BUSINESS ACT

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 2787

A BILL TO EXTEND THE SBA PILOT PROGRAMS UNDER SECTION 8 OF THE SMALL BUSINESS ACT

MARCH 27, 1986

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H.R. 2787, A BILL TO EXTEND THE SBA PILOT PROGRAMS UNDER SECTION 8 OF THE SMALL BUSINESS ACT

THURSDAY, MARCH 27, 1986

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room 428A, Russell Senate Office Building, Hon. Lowell Weicker, Jr. (chairman) presiding.

STATEMENT OF HON. LOWELL WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT, AND CHAIRMAN, COMMITTEE ON SMALL BUSINESS

Senator WEICKER. Good morning. Today the committee is holding a hearing on H.R. 2787, a bill to extend the procurement and surety bond waiver pilot programs under section 8 of the Small Business Act through September 30, 1988.

Under the regular 8(a) program, minority small businesses have traditionally received less sophisticated contracts, predominantly in the service area. The nature of the contracts set aside has limited the growth potential of certain minority firms.

In an effort to bring more technologically advanced, higher dollar volume contracts into the 8(a) program, Congress, on a limited pilot basis, provided SBA with an additional authority to actually reserve contracts for minority business from a procuring agency.

The committee will hear from the chairman of the House Small Business Committee, Parren Mitchell, minority contractors, and representatives from the Department of Transportation and the Small Business Administration.

Two central questions need to be answered: One, would the contracts secured under the Pilot Program for minority small businesses be set aside under the regular 8(a) program? Or, stated differently, has the pilot authority made a difference in improving the 8(a) portfolio of contracts?

Two, should the surety bond waiver program and authority which has never once been utilized in the 5 years it has been on the books be extended?

I am pleased to welcome the Honorable Parren Mitchell to the committee, who is a principal cosponsor of this legislation. Over the years, Congressman Mitchell has been a forceful and effective advocate in the Congress for minority business development and specifically for the 8(a) program. He has done a yeoman's job of keeping life

in this and other legislation to assure that minority-owned small businesses get their fair share of Government contracting opportunities.

Congressman Mitchell, while you are duly recognized as the champion for minority businesses as chairman of the House Small Business Committee in these difficult times, let me add that your leadership on behalf of all small businesses has been equally as effective. I personally have enjoyed working with you, and when you retire at the end of this Congress, you will be missed.

Before we hear from our witnesses, the written statements submitted by Senators Bumpers, Kasten, Pressler, and D'Amato will be made a part of the record of this hearing.

[The prepared statements of Senators Bumpers, Kasten, Pressler, and D'Amato follow:]

Statement of Senator Dale Bumpers

I would like to thank Chairman Weicker for holding this hearing on H.R. 2787, a bill which would extend the SBA Pilot Programs under Section 8(a) of the Small Business Act.

I want also to commend Congressman Mitchell, the distinguished Chairman of the House Small Business Committee, for sponsoring this bill and for instigating the pilot program several years ago. Chairman Mitchell has long been a staunch advocate of small business participation in federal procurement programs and of SBA as a whole. In addition, he has been a champion of minority small business enterprises and is almost single-handedly responsible for the current success of minority businesses under the 8(a) set-aside program. I was saddened to hear recently that Chairman Mitchell will be retiring later this year and that Congress will be losing such a dedicated and hardworking member. His retirement will also represent to the small business community the loss of one of its most valuable representatives.

Chairman Mitchell's bill would reauthorize, through September 30, 1988, two pilot programs administered by SBA under the set-aside program benefitting socially and economically disadvantaged small businesses: the procurement pilot program and the surety bond pilot program. The authority for both programs expired in September, 1985.

The procurement pilot program was established to increase SBA's authority to capture a steady stream of high-quality and high-level technology contracts for award under the set-aside program. This was accomplished through the creation of an improved dispute resolution system whereby the SBA and agency representatives could resolve contracting problems jointly, rather than by the agency head making the decision unilaterally. The program has apparently proved successful while working with the Department of Transportation and I hope a continuation of the program would produce an agency-wide source of these high quality contracts for minority small businesses. The surety bond waiver program, although it has not yet been utilized recently, would undoubtedly give a head start to those 8(a) businesses which are just starting out and do not have a track record to produce evidence of their viability and eligibility for the SBA surety bond program.

We expect to hear today from the contractors, who feel that the pilot programs have brought them larger and more valuable contracts, and from the agencies, which feel that the 8(a) program can operate sufficiently and effectively without the pilot programs. The purpose of this hearing is to resolve the differences between these opposing groups and allow the Senate to proceed with Chairman Mitchell's measure to the advantage of disadvantaged businesses nationwide.

STATEMENT BY
THE HONORABLE
ROBERT W. KASTEN, JR.

SENATE COMMITTEE ON SMALL BUSINESS
MARCH 27, 1986

MR. CHAIRMAN, I AM PLEASED THAT YOU ARE HOLDING THIS HEARING TO ADDRESS THE EXTENSION OF THE SECTION 8-A PILOT PROGRAMS.

WHILE I WAS STILL A MEMBER OF THE HOUSE OF REPRESENTATIVES, CONGRESS FIRST ESTABLISHED THESE VERY SAME PILOT PROGRAMS. THEIR PURPOSE WAS TO HELP SOCIALLY AND ECONOMICALLY DISADVANTAGED PERSONS BY PROMOTING THEIR VIABILITY TO COMPETE.

ALTHOUGH THE SECTION 8-A PILOT PROGRAMS ARE FAR FROM PERFECT, I HAVE HAD THE OPPORTUNITY TO WORK WITH SEVERAL MINORITY-OWNED BUSINESSES IN WISCONSIN WHICH HAVE BEEN ABLE TO RECEIVE SUBSTANTIAL CONTRACTS WITH THE FEDERAL GOVERNMENT THROUGH THESE PROGRAMS. I AM PROUD OF WHAT WE HAVE ACCOMPLISHED IN WISCONSIN.

I AM VERY PLEASED THAT THIS COMMITTEE WILL BE EXAMINING THIS PROGRAM'S RECORD AS THE SENATE CONSIDERS ITS REAUTHORIZATION WHICH WILL EXTEND THE PROGRAM THROUGH SEPTEMBER OF 1988. AGAIN MR. CHAIRMAN, I COMMEND YOU FOR HOLDING THIS IMPORTANT HEARING.

STATEMENT OF SENATOR LARRY PRESSLER
BEFORE THE SENATE COMMITTEE ON SMALL BUSINESS
HEARING ON H.R. 2787
MARCH 27, 1986

I WOULD LIKE TO BEGIN BY COMMENDING THE CHAIRMAN FOR CALLING THIS HEARING. THE OBJECTIVE OF SECTION 8 OF THE SMALL BUSINESS ACT IS TO PROMOTE THE COMPETITIVE VIABILITY OF FIRMS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.

TODAY WE ARE CONSIDERING LEGISLATION WHICH WOULD EXTEND TWO PILOT PROGRAMS FIRST IMPLEMENTED BY CONGRESS IN 1978. THESE PROGRAMS WERE DESIGNED TO BREATHE LIFE INTO THE SPIRIT OF SECTION 8. HOWEVER, SOME SEVEN YEARS LATER, IT IS STILL UNCLEAR HOW WELL THESE PROGRAMS CAN ACCOMPLISH THEIR OBJECTIVES.

ONE OF THE PILOT PROGRAMS AUTHORIZES THE SBA TO WAIVE FEDERAL BONDING REQUIREMENTS FOR 8(A) CONTRACTORS WHO ARE START-UP BUSINESSES WHICH HAVE BEEN IN THE PROGRAM FOR ONE YEAR OR LESS. THE INTENT OF THIS PROGRAM WAS TO ASSIST 8(A) START-UP FIRMS THAT HISTORICALLY HAVE HAD DIFFICULTIES IN OBTAINING BONDING FOR CONTRACTS THEY ARE OTHERWISE FULLY CAPABLE OF PERFORMING.

ALTHOUGH THE PROGRAM WAS AUTHORIZED IN OCTOBER OF 1978, THE SBA DID NOT PUBLISH NECESSARY IMPLEMENTING REGULATIONS UNTIL DECEMBER 1980. UNFORTUNATELY, DESPITE THE EXPLICIT DIRECTIVE OF CONGRESS, NO BONDING REQUIREMENTS HAVE EVER BEEN MADE. THUS, A SEVEN-YEAR-OLD LEGISLATIVE MANDATE, DESIGNED TO EXPLORE THE VIABILITY OF A SPECIFIC PROGRAM, REMAINS UNTESTED. THE REASONS BEHIND SUCH ACTION NEED TO BE ADDRESSED.

THE SECOND PILOT PROGRAM ALLOWED THE SBA THE AUTHORITY TO ENTER INTO PROCUREMENT CONTRACTS WITH FEDERAL AGENCIES AND, THEN, TO SUBCONTRACT WITH DESIGNATED SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS FOR THE ACTUAL PERFORMANCE OF THESE CONTRACTS. THE DEPARTMENT OF THE ARMY WAS THE ORIGINAL DESIGNATED PILOT AGENCY. IN 1980, NINE CONTRACTS WERE AWARDED THROUGH THE PROGRAM. IN 1980, THE PILOT PROGRAM WAS EXTENDED FOR AN ADDITIONAL YEAR, DURING WHICH THE ARMY AWARDED AN ADDITIONAL FIVE CONTRACTS.

IN 1983, THE PILOT PROGRAMS WERE EXTENDED FOR A THIRD TIME. DURING CONSIDERATION OF REAUTHORIZING LEGISLATION, IT WAS DETERMINED THAT THE CONCEPT SHOULD BE APPLIED TO A CIVILIAN AGENCY. AS A RESULT, THE DEPARTMENT OF TRANSPORTATION WAS DESIGNATED AS THE PILOT AGENCY. UNDER THIS AUTHORIZATION, WHICH EXPIRED ON SEPTEMBER 30, 1985, 14 ADDITIONAL PROJECTS WERE IDENTIFIED BY DOT FOR INCLUSION IN THE PROGRAM.

H.R. 2787 WOULD EXTEND THE PROCUREMENT PILOT PROGRAM UNTIL SEPTEMBER 30, 1988. IN ADDITION, THE BILL WOULD AUTHORIZE THE PRESIDENT TO DESIGNATE ANY EXECUTIVE AGENCY AS ELIGIBLE TO PARTICIPATE IN THE PROGRAM. IF WE ARE TO FAIRLY JUDGE THE VALUE OF 8(A) SET-ASIDE CONTRACTS, THE PROGRAM MUST BE EXPANDED.

THERE REMAINS, HOWEVER, ONE OTHER IMPORTANT CONSIDERATION. DURING THE COURSE OF THE PREVIOUS PROCUREMENT PILOT PROGRAMS, SBA HAS HELD MOST OF THE SUBSTANTIVE AUTHORITY IN ITS CENTRAL OFFICE. AT THE SAME TIME, SBA FIELD OFFICES HAVE BEEN CHARGED WITH THE DAY-TO-DAY RESPONSIBILITIES OF RUNNING THE PROGRAM. UNFORTU-

NATELY, THIS HAS CAUSED SOME BUREAUCRATIC CONFUSION, SOMETIMES RESULTING IN A BREAKDOWN OF COMMUNICATION BETWEEN THE SBA CENTRAL AND FIELD OFFICES.

THESE STRUCTURAL PROBLEMS WERE EXEMPLIFIED DURING A RECENT CONVERSATION I HAD WITH THE OWNER OF A CERTIFIED 8(A) FIRM IN SOUTH DAKOTA WHICH IS COMPLETELY OWNED AND OPERATED BY AMERICAN INDIANS ON A RESERVATION WHICH IS SUFFERING FROM AN UNEMPLOYMENT RATE IN EXCESS OF 80 PERCENT. DUE TO THE NATURE OF THE PRODUCT, NO "LOCAL BUY" CONTRACTS WERE AVAILABLE. IN ADDITION, THE FIRM WAS TOLD NO "NATIONAL BUY" CONTRACTS COULD BE LOCATED. IT WAS LATER DISCOVERED THAT NATIONAL CONTRACTS HAD EXISTED. HAD THERE BEEN BETTER COMMUNICATION BETWEEN THE FIELD OFFICES AND THE CENTRAL OFFICE, THIS FIRM MIGHT HAVE SECURED A MUCH-NEEDED CONTRACT. UNFORTUNATELY, THIS DESIGNATED 8(A) FIRM NEVER EVEN HAD THE CHANCE TO SUBMIT A BID.

I BELIEVE CONGRESS HAS ATTEMPTED TO ACHIEVE A WORTHY GOAL THROUGH THE 8(A) PROGRAM. HOWEVER, AS WITH ANY PILOT PROGRAM, WE MUST CONTINUE TO REVIEW ITS EFFECTIVENESS AND REFINE THE PROCESS. HOPEFULLY TODAY'S HEARING WILL IDENTIFY PROBLEM AREAS AND CONTINUE OUR EFFORTS TO PROMOTE THE COMPETITIVE VIABILITY OF TARGETED FIRMS SO THAT ONE DAY THEY MAY EFFECTIVELY STAND AND COMPETE ON THEIR OWN.

STATEMENT BY SENATOR D'AMATO
SENATE COMMITTEE ON SMALL BUSINESS
H.R. 2787
A BILL TO EXTEND SBA SECTION 8 PILOT PROGRAMS
THURSDAY, MARCH 27, 1986
9:30 AM
SR - 428A

GOOD MORNING, MR. CHAIRMAN. BEFORE WE START TODAY'S HEARING, I WOULD LIKE TO THANK OUR PANEL OF WITNESSES FOR TAKING TIME FROM THEIR SCHEDULES TO TESTIFY BEFORE THE COMMITTEE. H.R. 2787, WHICH WAS INTRODUCED BY CONGRESSMAN ADDABBO LAST JUNE AND PASSED THE HOUSE THIS PAST DECEMBER, DESERVES OUR CLOSE ATTENTION.

H.R. 2787 IS A BILL TO EXTEND SBA SECTION 8 PILOT PROGRAMS THROUGH SEPTEMBER OF 1988. THERE ARE TWO SECTION 8 PILOT PROGRAMS: THE PROCUREMENT PILOT PROGRAM AND THE SURETY BOND WAIVER PILOT PROGRAM. BOTH OF THESE PROGRAMS EXPIRED LAST SEPTEMBER.

THE PROCUREMENT PROGRAM GIVES THE SBA INCREASED AUTHORITY TO SELECT AND RESERVE CONTRACTS FOR USE IN THE MINORITY BUSINESS PROGRAM FROM AGENCIES DESIGNATED BY THE PRESIDENT. THE SURETY BOND WAIVER PILOT PROGRAM AUTHORIZES THE SBA TO WAIVE FEDERAL BONDING REQUIREMENTS FOR MINORITY

AND DISADVANTAGED CONTRACTORS WHO ARE START-UP BUSINESSES AND HAVE BEEN IN THE PROGRAM ONE YEAR OR LESS.

WHAT AMAZES ME ABOUT THESE PILOT PROGRAMS IS THAT, WHILE THEY WERE ESTABLISHED IN 1978, THEY HAVE NOT YET HAD A CHANCE TO REACH FRUITION. THE PROCUREMENT PROGRAM HAS ONLY BEEN IN FULL OPERATION FOR TWO YEARS AND THE BOND WAIVER PROGRAM IS STILL MORIBUND. WHILE THE PROGRAM WAS EXTENDED AND SBA REGULATIONS DEVELOPED, NO BONDING REQUIREMENTS HAVE EVER BEEN WAIVED.

MR. CHAIRMAN, I AM INTERESTED IN HEARING TODAY'S TESTIMONY. I AM HOPEFUL THAT THIS ISSUE CAN BE RESOLVED EXPEDISIOUSLY, AND THAT THESE PROGRAMS CAN BE ALLOWED TO ACHIEVE THEIR INTENDED PURPOSES.

THANK YOU, MR. CHAIRMAN.

Senator WEICKER. We welcome all of you to today's hearing, and we will now hear from Congressman Parren Mitchell.

STATEMENT OF HON. PARREN J. MITCHELL, A U.S. CONGRESSMAN FROM THE STATE OF MARYLAND, AND CHAIRMAN, HOUSE COMMITTEE ON SMALL BUSINESS

Representative MITCHELL. Thank you, Mr. Chairman. I am pleased to have the opportunity to testify in support of H.R. 2787, a bill introduced by Representative Joseph P. Addabbo to extend through September 1988 two SBA pilot programs initially established under Public Law 95-507. The procurement Pilot Program and the surety bond waiver Pilot Program are designed to further the objective of the capital ownership development program, that is, to promote the competitive viability of firms owned and controlled by socially and economically disadvantaged individuals.

The SBA pilot programs were the subject of indepth hearings by the House Small Business Committee, on May 15, 1985, the committee conducted an investigatory hearing to monitor the implementation of both programs. Subsequently, on June 18, the bill, H.R. 2787, was introduced by Representative Addabbo and originally cosponsored by myself.

Legislative hearings were held on November 20, 1985, by my subcommittee on SBA and SBIC authority, minority enterprise, and

general small business programs. Based on testimony received at that hearing, the investigatory hearing in May, and the review of other available material, the subcommittee conducted its markup and favorably reported the bill on November 21, 1985. The full committee ordered the measure favorably reported, without amendment, on December 10, 1985. Six days later, on December 16, 1985, the House of Representatives passed the measure under suspension of rules.

The procurement Pilot Program grants SBA the unilateral authority to select, from an agency designated by the President, any contract requirement for use in the 8(a) program. The most important element of the Pilot Program, therefore, is the dispute resolution authority.

Under the regular 8(a) program, the head of the agency is empowered with the final authority to resolve any disagreement between SBA and the buying activity over the selection of a requirement for the program, or the terms and conditions of a potential award.

Under the Pilot Program authority SBA may appeal to the head of the buying activity when there is some disagreement on the terms and conditions of the proposed contract. Although the head of the agency has the exclusive authority to set such terms and conditions, the agency cannot override SBA's selection of the particular requirement. It was through this mechanism that Congress sought to test the premise that a more steady stream of quality contracts could be obtained for the program if dispute resolution authority were divided between the SBA administrator and the head of the buying agency, rather than resting exclusively with the agency head.

The pilot authority has enabled SBA to capture a number of quality contracts for award under the 8(a) program. During the first pilot period with the Army, a total of $35 million of contracts were awarded to 8(a) firms. The second Pilot Program resulted in the award of another $60 million in 8(a) contracts by the Army.

The most recent Pilot Program with the Department of Transportation was, however, the most successful Pilot Program to date with 8(a) awards expected to reach approximately $200 million once all phases of the pilot projects are awarded. In total, since the inception of the program, 25 pilot projects have been awarded with an approximate dollar value of $300 million.

The successes in this area amply demonstrate the fact that if, given the shot, if given the chance, we have the sophistication and the technique to perform other than the traditional contracts.

Another area in which we have had severe problems with SBA has been the surety bond waiver Pilot Program. Bonding is a perennial, pernicious problem for minority business, and this program is, in part, an answer to that. SBA unfortunately, did not want the program and therefore didn't publicize it. In the testimony in the hearings that we had on both of these aspects of the bill, one entrepreneur indicated, "Had I known that there was such a program, I would have gladly embraced it because I have all kinds of trouble in getting bonding." We're asking for the continuation of that bonding program. It has never been properly implemented by SBA, and I insist that we as Members of Congress make the law

and it's our responsibility to make the agencies obey the law and implement the law.

I have nothing more to say on this except that I am very, very grateful for your support. We're in some kind of tough times right now with regard to both small and minority businesses, but we will weather this present storm and just keep on moving on the right course, which I believe is the empowerment of minority businesses and the enhancement of small businesses in this country.

I would be glad to respond to any questions you might have.

[The prepared statement of Representative Mitchell follows:]

STATEMENT BY
HONORABLE PARREN J. MITCHELL, CHAIRMAN
HOUSE COMMITTEE ON SMALL BUSINESS
ON H.R. 2787
BEFORE THE SENATE COMMITTEE ON SMALL BUSINESS
MARCH 27, 1986

GOOD MORNING!

I AM PLEASED TO HAVE THE OPPORTUNITY TO TESTIFY IN SUPPORT OF H.R. 2787, A BILL INTRODUCED BY REPRESENTATIVE JOSEPH P. ADDABBO TO EXTEND THROUGH SEPTEMBER, 1988 TWO SBA PILOT PROGRAMS INITIALLY ESTABLISHED UNDER P.L. 95-507. THE PROCUREMENT PILOT PROGRAM AND THE SURETY BOND WAIVER PILOT PROGRAM ARE DESIGNED TO FURTHER THE OBJECTIVE OF THE CAPITAL OWNERSHIP DEVELOPMENT PROGRAM, THAT IS, TO PROMOTE THE COMPETITIVE VIABILITY OF FIRMS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.

THE SBA PILOT PROGRAMS WERE THE SUBJECT OF IN-DEPTH HEARINGS BY THE HOUSE SMALL BUSINESS COMMITTEE. ON MAY 15, 1985, THE COMMITTEE CONDUCTED AN INVESTIGATORY HEARING TO MONITOR THE IMPLEMENTATION OF BOTH PROGRAMS. SUBSEQUENTLY, ON JUNE 18th, THE BILL, H.R. 2787, WAS INTRODUCED BY REPRESENTATIVE ADDABBO AND ORIGINALLY CO-SPONSORED BY MYSELF. LEGISLATIVE HEARINGS WERE HELD ON NOVEMBER 20, 1985 BY MY SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROGRAMS. BASED UPON TESTIMONY RECEIVED AT THAT HEARING, THE INVESTIGATORY HEARING IN MAY, AND THE REVIEW OF OTHER AVAILABLE MATERIAL, THE SUBCOMMITTEE CONDUCTED IT'S MARKUP AND FAVORABLY REPORTED THE BILL ON NOVEMBER 21, 1985. THE FULL COMMITTEE ORDERED THE MEASURE FAVORABLY REPORTED, WITHOUT

AMENDMENT, ON DECEMBER 10, 1985. SIX DAYS LATER, ON DECEMBER 16, 1985, THE HOUSE OF REPRESENTATIVES PASSED THE MEASURE UNDER SUSPENSION OF THE RULES.

THE PROCUREMENT PILOT PROGRAM GRANTS SBA THE UNILATERAL AUTHORITY TO SELECT, FROM AN AGENCY DESIGNATED BY THE PRESIDENT, ANY CONTRACT REQUIREMENT FOR USE IN THE 8(a) PROGRAM. THE MOST IMPORTANT ELEMENT OF THE PILOT PROGRAM, THEREFORE, IS THE DISPUTE RESOLUTION AUTHORITY. UNDER THE REGULAR 8(a) PROGRAM, THE HEAD OF THE AGENCY IS EMPOWERED WITH THE FINAL AUTHORITY TO RESOLVE ANY DISAGREEMENT BETWEEN SBA AND THE BUYING ACTIVITY OVER THE SELECTION OF A REQUIREMENT FOR THE PROGRAM, OR THE TERMS AND CONDITIONS OF A POTENTIAL AWARD. UNDER THE PILOT PROGRAM AUTHORITY SBA MAY APPEAL TO THE HEAD OF THE BUYING ACTIVITY WHEN THERE IS SOME DISAGREEMENT ON THE TERMS AND CONDITIONS OF THE PROPOSED CONTRACT. ALTHOUGH THE HEAD OF THE AGENCY HAS THE EXCLUSIVE AUTHORITY TO SET SUCH TERMS AND CONDITIONS THE AGENCY CANNOT OVERRIDE SBA's SELECTION OF THE PARTICULAR REQUIREMENT. IT WAS THROUGH THIS MECHANISM THAT CONGRESS SOUGHT TO TEST THE PREMISE THAT A MORE STEADY STREAM OF QUALITY CONTRACTS COULD BE OBTAINED FOR THE PROGRAM IF DISPUTE RESOLUTION AUTHORITY WERE DIVIDED BETWEEN THE SBA ADMINISTRATOR AND THE HEAD OF THE BUYING AGENCY, RATHER THAN RESTING EXCLUSIVELY WITH THE AGENCY HEAD.

THE PILOT AUTHORITY HAS ENABLED SBA TO CAPTURE A NUMBER OF QUALITY CONTRACTS FOR AWARD UNDER THE 8(a) PROGRAM. DURING THE

FIRST PILOT PERIOD WITH THE ARMY, A TOTAL OF $35 MILLION OF CONTRACTS WERE AWARDED TO 8(a) FIRMS. THE SECOND PILOT PROGRAM RESULTED IN THE AWARD OF ANOTHER $60 MILLION IN 8(a) CONTRACTS BY THE ARMY. THE MOST RECENT PILOT PROGRAM WITH THE DEPARTMENT OF TRANSPORTATION WAS, HOWEVER, THE MOST SUCCESSFUL PILOT PROGRAM TO DATE WITH 8(a) AWARDS EXPECTED TO REACH APPROXIMATELY $200 MILLION ONCE ALL PHASES OF THE PILOT PROJECTS ARE AWARDED. IN TOTAL, SINCE THE INCEPTION OF THE PROGRAM, 25 PILOT PROJECTS HAVE BEEN AWARDED WITH AN APPROXIMATE DOLLAR VALUE OF $300 MILLION.

THE SURETY BOND WAIVER PILOT PROGRAM, UNFORTUNATELY, HAS NOT ENJOYED THE SUCCESS OF THE PROCUREMENT PILOT PROGRAM. THE BOND WAIVER AUTHORITY WAS ESTABLISHED FOR THE CLEAR PURPOSE OF ASSISTING 8(a) FIRMS THAT ARE UNABLE TO OBTAIN BONDING FOR A PARTICULAR PROJECT BUT ARE OTHERWISE CAPABLE OF PERFORMING THE WORK. ONE OF THE KEY CRITERIA THAT SURETY COMPANIES REVIEW IS THE APPLICANT'S TRACK RECORD. APPLICANTS ARE REQUIRED TO HAVE A HISTORY OF SUCCESSFUL PERFORMANCE ON THE TYPE AND SIZE OF CONTRACT INVOLVED. THIS REQUIREMENT PLACES MANY FIRMS IN A CATCH 22 SITUATION - THEY CANNOT OBTAIN A SURETY BOND BECAUSE THEY HAVE NEVER DONE THE TYPE OF WORK REQUIRED, AND THEY CANNOT BEGIN TO DO THAT TYPE OF WORK BECAUSE THEY CANNOT OBTAIN A BOND. HOWEVER, DESPITE THE EXISTENCE OF PERRENIAL BONDING PROBLEMS FOR MINORITY BUSINESSES, SBA HAS NOT WAIVED A SINGLE BOND UNDER THE BOND WAIVER PROGRAM. IN FACT, INSTEAD OF ASSISTING 8(a) FIRMS IN OVERCOMING THIS IMPEDIMENT TO ECONOMICAL DEVELOPMENT, SBA HAS CHOSEN TO DEFY THE LAW.

TESTIMONY RECEIVED BY MY COMMITTEE URGED OVERWHELMINGLY THAT BOTH PILOT PROGRAMS SHOULD BE EXTENDED. A NUMBER OF WITNESSES EVEN RECOMMENDED THAT THE PROCUREMENT PILOT PROGRAM BE EXTENDED TO ALL FEDERAL AGENCIES ON A PERMANENT BASIS. IT WAS THE UNANIMOUS OPINION OF THE 8(a) FIRMS AND MINORITY BUSINESS TRADE ASSOCIATIONS WHICH TESTIFIED THAT WITHOUT THE PILOT AUTHORITY THERE WOULD BE VERY LITTLE OPPORTUNITY FOR 8(a) FIRMS TO MOVE INTO AREAS OF HIGH TECHNOLOGY AND RAPID GROWTH. MANY FIRMS STATED THAT THE PILOT AUTHORITY PROVIDED THEM WITH A VEHICLE THROUGH WHICH THEY COULD AT LEAST DEMONSTRATE THEIR CAPABILITIES TO THE PILOT AGENCY INSTEAD OF SUMMARILY BEING DENIED THE OPPORTUNITY TO MAKE A TECHNICAL PRESENTATION, AS IS EVIDENT SO MANY TIMES UNDER THE REGULAR 8(a) PROGRAM. IT IS WITHOUT A DOUBT THAT NEARLY ALL OF THE PILOT PROJECTS WOULD NEVER HAVE BEEN CONSIDERED FOR THE REGULAR 8(a) PROGRAM. THE MENTALITY OF MOST PROCUREMENT OFFICIALS IS TO AWARD LOW DOLLAR, LESS CHALLENGING PROJECTS TO 8(a) FIRMS FOR THE SOLE PURPOSE OF MEETING THEIR AGENCIES' 8(a) PROCUREMENT GOALS. UNTIL THE FEDERAL AGENCIES ARE MORE WILLING TO VOLUNTARILY CONSIDER 8(a) FIRMS FOR THE MORE LUCRATIVE AND SOPHISTICATED PROJECTS, THERE CONTINUES TO BE A NEED TO MAINTAIN THE PROCUREMENT PILOT AUTHORITY.

SINCE THE BOND WAVIER PROGRAM HAS NEVER BEEN PROPERLY IMPLEMENTED BY SBA, WE MUST DIRECT THEM TO AGGRESSIVELY IMPLEMENT THE PROGRAM SO THAT THE UTILITY OF A BOND WAVIER CONCEPT MAY BE FAIRLY TESTED AND EVALUATED.

I, THEREFORE, URGE THIS COMMITTEE TO JOIN THE HOUSE SMALL BUSINESS COMMITTEE IN SUPPORTING H.R. 2787 AND WORKING DILIGENTLY TOWARDS ITS EXPEDITIOUS PASSAGE BY THE SENATE.

Congressman Mitchell's Response to Senator Weicker's question

Sen. Weicker "I generally share your concern about the Administration not implementing the programs established by Congress. However, SBA has argued that they do not have the expertise to make the decision on the surety bond waivers and secondly, that the surety bond waiver provides no long-term benefit to an 8(s) contractor. How do you respond to their conceptual point that even if an 8(a) firm satisfactorily performed under a bond waiver, it would not have a track record to get a bond in the private surety market?"

Cong. Mitchell "As I mentioned in my statement, one of the key criteria which surety companies use in deciding upon surety bond applications is the applicant's track record of having successfully performed the size of contract involved. There is a basic misconception that a minority firm cannot be successful if it cannot obtain bonding. Therefore, the intent of the Bond Waiver Program is to provide qualified minority firms an opportunity to demonstrate their capabilities to successfully perform a requirement and thus establish the necessary track record needed to obtain bonding for future requirements. I simply do not believe, as SBA insists, that a surety will totally disregard actual performance on previous jobs solely because they were not bonded."

"With regard to SBA's contention that they do not have the expertise to make a decision on surety bond waivers, SBA is required by statute to certify to a particular buying activity that the 8(a) firm nominated to perform a requirement is competent and responsible to do so. Proper administration of the surety bond waiver program would, of course, require SBA to exercise sound underwriting judgment in determining when an 8(a) firm is capable of performing a particular requirement and should therefore receive a bond waiver. Consequently, the pilot legislation requires SBA to do nothing that it is not already required to do, under law, to assess the ability of a contractor to perform a specific job."

Senator WEICKER. I could not agree with you more. I have just a few questions.

Incidentally, how does this fare under the administration's budget proposal or the Domenici proposal? Does it include the MESBIC program?

Mr. DOTCHIN. Yes.

Senator WEICKER. SBA is going to testify later today that the pilot procurement program is unnecessary because under the regular 8(a) program the administrator already has the authority to appeal a decision if an agency denies SBA's request to set a contract aside for the regular 8(a) program. How do you respond to the argument that the "club" approach in the pilot procurement program is unnecessary and duplicates the authority of the regular 8(a) program?

Representative MITCHELL. That is one of the reasons why we have not made breakthroughs prior to the time of this legislation. The agency heads could make the determination whether or not a contract could be set aside. In many, many instances it would defy the Small Business Administration and say, "No, you can't do it that way." So you need the club.

I regret to say, Senator, that in terms of the economic empowerment, there is very little good-will approach, very little of that. You have to have clout in order to make this thing work, and I insist that it be in place.

Senator WEICKER. With the relative success of the procurement pilot with DOT, do you feel that the pilot should continue in that agency or be tested elsewhere if H.R. 2787 is enacted?

Representative MITCHELL. I think it ought to continue with DOT. During the hearings we had some testimony to the effect that the program works so well we ought to spread it out over all the agencies of Government. I think that's premature. Let's go another round with DOT and then see where we go from there.

Senator WEICKER. Parren, it's my understanding that you are considering legislation to move MBDA, in the Department of Commerce, to SBA. Is that correct, and if so, would you wish to elaborate?

Representative MITCHELL. Yes, I am. I am afraid I am not well loved over at MBDA, never have been well loved since the inception of that program, because I have resisted giving it statutory authority. And the reason I have resisted giving it such authority is that in past hearings it appeared to me that it was more of a public relations kind of operation.

I recall, throughout the years when SBA would testify as to its accomplishments and MBDA would testify on the same day, they would claim credit for the same thing. And I would say, well, who did what. And MBDA always tried to indicate that it had done so much. I have never been impressed by the work of that particular agency. They've got some money over there. We are hard pressed over in SBA. I would rather take that money over and move it over in terms of the SBA program where we could use it for contracts and everything else rather than have what has been in the past really a glorified public relations program.

Senators, I am weary of conferences. That agency has a tendency to have innumerable conferences. I am not at all sure that confer-

ences are what we need now. The laws are in place. We've got people capable of performing contracts. I have grown to have an increasing distaste for coffee and donuts early in the morning at a conference which doesn't accomplish very much.

I have never really been impressed with the pseudo-trade fair approach where everybody comes together in an atmosphere of intercollegial atmosphere and the companies are saying, we are minority business and this agency will say, yes, we have another supertrade fair, but no contracts come out of it. So I say that money should be moved over to where we can use it in a viable fashion.

Senator WEICKER. Well, I agree with you. I will tell you one thing, MBDA in Connecticut was clearly a disaster.

Representative MITCHELL. Well, as I travel around the country and as I hear from the entrepreneurs, I don't know of anyone who is singularly impressed by the work of that agency. They make beautiful brochures. Now, I must admit that their brochures are some of the most attractive that I have ever seen come out of a Government agency, but you can't spend brochures for equipment, supplies, and so forth, for your business.

Senator WEICKER. All right. I very much appreciate your testimony.

Senator Dixon.

Senator DIXON. Mr. Chairman, I am delighted to see such a distinguished Member of Congress over here appearing before us. I have the highest personal regard for Congressman Mitchell. I have no questions, but I appreciate his testimony.

Representative MITCHELL. Thank you very much, Senator. Happy Easter, Senator.

Senator WEICKER. Parren, we probably will meet a few more times in conference, but again this is probably the only official forum in which I can express my appreciation for your career in Congress. Believe me, yours is a voice that is going to be sorely, sorely missed.

Senator DIXON. May I share that and express the same sentiments, Mr. Chairman.

Representative MITCHELL. Thank you, gentlemen. It's very kind of you. I really appreciate it.

Senator WEICKER. Thank you.

Now, our first panel consists of: Mr. Robert Ozuna, president of New Bedford Panoramex, Santa Fe Springs, CA, representing the Latin American Manufacturers Association; Mr. Jerry Jones, president of Sonicraft of Chicago, IL; Dr. Lee Wan, president of Lee Wan and Associates, Decatur, GA; and Mr. Robert L. Jones, chairman and chief executive officer, AMAF Industries, Inc., Columbia, MD.

Gentlemen, it's a pleasure to have you all here. I would hope that you could synopsize your official statements, all of which will be included in the record in their entirety. If you could synopsize 5 or 6 minutes apiece so that we might have a little back-and-forth discussion here, I think that might be more beneficial as we develop this legislation.

Senator DIXON. Mr. Chairman.

Senator WEICKER. Senator Dixon.

Senator DIXON. Mr. Chairman, if I could have the pleasure of indicating to the Chair my longtime personal relationship with Jerry Jones, who is an outstanding business leader in our community back home in Chicago. Mr. Jones and his company, have the support of our business community, and I am delighted to welcome him to the committee this morning.

I have a statement on this subject matter that I would like to place in the record.

Senator WEICKER. It will be included.

[The prepared statement of Senator Dixon follows:]

ALAN J. DIXON
ILLINOIS

United States Senate
WASHINGTON, D.C. 20510

Statement by Senator Alan Dixon

Senate Committee on Small Business

Hearing on H.R. 2787

March 27, 1986

Mr. Chairman, the bill we are examining today extends through Fiscal Year 1988 two pilot programs administered by the Small Business Administration, the procurement pilot program and the surety bond waiver pilot program. These pilot programs are intended to promote the competitive viability of firms owned and controlled by socially and economically disadvantaged individuals who are participating in government procurement programs under section 8(a) of the Small Business Act.

Americans who are members of minority groups, such as Blacks, Native Americans, and Hispanics, long have had difficulty entering the nation's economic mainstream. It is the policy of the Small Business Administration to afford minority and disadvantaged persons the fullest opportunity to

participate in the small business sector and to use all agency resources and other private, Federal, State, and local government assistance programs to this end.

Section 8(a) of the Small Business Act, as amended, empowers the Small Business Administration to serve as prime contractor and enter into contracts with Government procurement agencies to furnish articles, equipment, suplies and materials to the Government. It also authorizes the Small Business Administration to arrange for the performance of those contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small businesses to provide the goods or services required. The 8(a) program has been instrumental in advancing the cause of minority and disadvantaged businesses.

As I stated earlier, the programs we are evaluating today are designed to promote the viability of firms owned and controlled by socially and economically disadvantaged individuals. This hearing will provide us with facts and information that will allow us to evaluate whether these programs have achieved their goals.

Mr. Chairman, I look forward to today's hearing as we explore the issues associated with these programs and evaluate the merits of this legislation.

Senator WEICKER. Mr. Jones, it is a pleasure to have you here.

Mr. J. JONES. Nice seeing you, Senator.

Senator WEICKER. All right. Why don't we proceed. I don't know what Senator Dixon's schedule is, so I will tell you what I am going to do. It could very well be that he has to go elsewhere.

Senator DIXON. I have to be at the floor.

Senator WEICKER. I wonder if you would all at least allow Mr. Jones to go first so that Senator Dixon might have the opportunity to hear his testimony before he must leave.

Senator DIXON. Thank you, Mr. Chairman.

Senator WEICKER. Mr. Jones.

STATEMENT OF JERRY T. JONES, PRESIDENT, SONICRAFT, INC., CHICAGO, IL

Mr. J. JONES. Thank you very much, Mr. Chairman. Mr. Chairman and Senator Dixon, I am very happy to be here today to present my views on H.R. 2787.

Sonicraft has been a supporter and a user of the program and SBA for many years. We are very fortunate that we received outstanding support from the SBA over the years. We have received financial assistance, procurement assistance, business development assistance.

And let me point out that we currently have a program that started on the SBA pilot. But I want to also offer my appreciation to Senator Dixon. If it wasn't for the help that he had given to our company because of his interest in small business, we wouldn't have been able to get a pilot program.

We had a contract with the Air Force which was a very large program and was, in fact, kind of considered a pilot program with the Air Force even though it was not a pilot agency. However, as we believe normally happens when you get large programs, big business kind of encroaches on it, and we had some real trouble, much of it political. Senator Dixon came to our aid, and we are still in that contract.

The opportunity that we currently have with the FAA is one that offers us a lot of opportunities. First of all, it provides a multiyear contract opportunity. This program is expected to total more than $100 million over the first 10 years and will probably allow us to continue participating in this program perhaps for 15 to 20 years.

One of the important aspects of pilot programs is that you can talk about a $100 million program, and that seems like a very large program, and this is generally the way it's approached. One way of looking at it is that this is $10 million a year. But when you start out looking at this program, the agency normally looks at it as, well, you're going to get $100 million, so you've got to show the financial capability to deal with $100 million rather than $10 million a year. I just want to add that and emphasize it because even though the program has long-range potential, the short-range potential, you know, is much different.

One of the other opportunities is that it provides us visibility within the FAA as a viable contractor. This is important because of

the fact that it creates the image in the agency that small businesses are, in fact, capable of performing work.

One of the other things that happens as a result of the Pilot Program is that we are now finding that large companies, particularly those that do business with the FAA, are seeking us out as a potential subcontractor. This is very important because obviously a lot of the work that is awarded under Government contract is awarded to the large companies, and if small companies are going to succeed, they need to be contractors, subcontractors to the large companies.

However, sirs, there is no doubt in my mind that regardless of the capability that Sonicraft had prior to getting this Pilot Program, if it were not for the Pilot Program, we would not have gotten the contract that we currently have.

One of the most important things that the SBA can provide is advocacy for small companies and to demonstrate the capability of small firms in terms of being able to perform on contracts.

I also wanted to mention the fact, sirs, that we had an opportunity on the pilot program in the late 1970's; in some of the first pilot programs with the Army, that did not succeed. We spent a great deal of money, somewhere around a one-half of a million dollars of our funds, in SBA funds. We had a number of subcontractors—and they were very large companies: Rockwell, Gould, and some other companies—that were participating with us, but we still could not get to a point of negotiation and consequently did not get a contract. But that just shows you the difficulty that you run into when you're trying to get a very large contract, or one that some would consider very large, as a small company.

So the Pilot Program is important to particularly the 8(a) companies that are about to graduate because they provide some opportunities that are not available otherwise, particularly in that they provide generally some options that could be performed in outyears. One of the problems that a firm that is graduating has is that quite often contracts are maintained in the 8(a) program. That means that the work that the company has shown its qualifications for may not be available to it after its graduation. So the 8(a) program, the Pilot Program, provides this continuity for the firm as it leaves the 8(a) program and goes on its own.

Since the Pilot Program, one of the things that we have noticed is that there have been more contract awards by agencies that are much larger than they had before. After we received a contract that was estimated at about $65 million, with the potential of about $200 million, we did notice that other agencies started to award larger contracts. So we feel that the pilot program demonstrates that small companies can perform on these contracts, and we need more of those kinds of demonstrations in order to make the agencies feel better.

There is certainly a tendency in the agencies, and I believe, in the business community, to believe that contracts that exceed a certain dollar value—and it generally seems to run around the $10-15 million range—are solely to be performed by large companies. And I believe that more pilot contracts will tend to change that view in the agencies about small businesses.

Consequently, sirs, I recommend that H.R. 2787 be supported. Of course, you have already said that you would do that, so I won't

add any more. I will be willing to answer any questions that you may have, sir.

[The prepared statement of Mr. J. Jones follows:]

STATEMENT OF JERRY T. JONES
President, Sonicraft, Inc.
President, PUSH International Trade Bureau

before the

SENATE SMALL BUSINESS COMMITTEE

March 27, 1986

Mr. Chairman and members of the Committee:

I am pleased to appear today to present my views on H.R. 2787, the bill extending the SBA Pilot Program under Section 8 of the Small Business Act.

I speak to you as President of Sonicraft, Inc., a company that has had extensive association with the Small Business Administration (SBA) over the last fifteen (15) years.

Sonicraft is fortunate in that it has received outstanding support from SBA including financial assistance, procurement assistance and business development assistance. All of these things have been necessary for us to develop to the point that we believe our company is now viable and has potential for longevity.

Sonicraft currently has a contract that was awarded as a result of the Pilot Program within the Department of Transportation (DOT). Sonicraft is no longer in the 8(a) program, but this contract is expected to provide Sonicraft with some of the most significant opportunities that our company has had since its inception.

These opportunities include:

1. Multi-year contract deliveries. The RCE program is expected to have potential follow on for at least fifteen years and will have contract potential of $100 million over the first ten years.

2. Visibility at a level in FAA to be recognized as a significant contributor to the upgrade of the National Air Space System.

3. Recognition by major corporations as a viable subcontractor because of expertise demonstrated in performance of this contract.

4. Purchase of stock by other companies or investors.

There is no doubt in my mind, that the current contract that Sonicraft now has with the Federal Aviation Administration (FAA) could not have been awarded to us in the absence of a Pilot Program and that even though our company was capable of performing the contract in comparison with other large companies' capabilities, the contract would otherwise have been denied. In fact, Sonicraft was involved with another Pilot Program opportunity when the first Pilot Program with the U.S. Army was instituted. The hostility toward our company and to the SBA, even with the Pilot Program, made it impossible to negotiate reasonable terms and ultimately, Sonicraft was not awarded the contract under the Pilot Program even after having spent more than one half million dollars in proposal expenses ourselves and with more than one million dollars in proposal expenses by several subcontractors.

Even though it is our opinion that the agencies are now recognizing that large contracts can be awarded to 8(a) companies, it is still very difficult for them to take on the effort to do so.

Some of the important things that can be provided to firms that will participate in the Pilot Program are: (1) Advocacy - to be able to raise the question of the viability of a particular procurement, (2) Negotiation Support, as well as (3) Financial and Management Support. In the case of our current Pilot Program contract, the effort to convince the agency that the opportunity was viable for the agency and the company, was the most difficult of all. Once the agency decided it was in its best interest, negotiations went smoothly. Agencies are not likely to award large contracts to small companies unless they have compelling reasons to do so.

The Pilot Program is important to those companies that are leaving the 8(a) Program because contracts performed by the graduating company often are retained in the 8(a) Program. This means that contract work on which the company has demonstrated performance may no longer be available once the firm graduates from the 8(a) Program. One important aspect of the Pilot Program often is options for future work. These options provide opportunities for the firm in future years and help the companies make the transition from the 8(a) Program to competitiveness.

We must consider action by agencies to avoid a pilot program. It is my belief that some agencies will award large contracts to 8(a) firms if there is the pilot program "threat". The agency will, therefore, award large contracts in order to show that the pilot program is not needed.

I believe that the Pilot Program is an important part of the support that the SBA can provide to minority firms in their effort to help those firms become viable and independent entities.

It is my recommendation that H.R. 2787 be supported and passed into legislation. Some of the reasons why this program is important to minority firms is that even with the 8(a) Programs, many agencies find it difficult, if not impossible, to award multi-year significant dollar contracts to minority firms.

This is particularly so, because of the fact that there appears to be a "Gentlemen's Agreement" in procurement agencies to the affect that large dollar volume multi-year contracts are big business contracts. This means that the small business will have to compete with large businesses for these kinds of opportunities. Procurement Officers consider large businesses lower risk. Generally identifying the huge worth as a determining safety factor and will consequently rate the large business above the small business in evaluation.

The Pilot Program is an opportunity to demonstrate that large contract awards can be made to minority and small businesses and, therefore, provide an increase in the productive capacity which has long been recognized as a benefit to the country and an objective of the small business program.

Senator WEICKER. Thank you, Mr. Jones. I think we will move on to the rest of the panelists, and then come back to the questions. Mr. Ozuna.

STATEMENT OF ROBERT L. OZUNA, PRESIDENT, NEW BEDFORD PANORAMEX, SANTA FE SPRINGS, CA

Mr. OZUNA. Mr. Chairman, and Senator Dixon, it is my pleasure to appear before this subcommittee to discuss my views concerning H.R. 2787, which will extend the small-business Pilot Program under section 8 of the Small Business Act. My name is Robert Ozuna, president of New Bedford Panoramex, located in Santa Fe Springs, CA.

I formed my company in 1965, 17 years prior to my entrance into the 8(a) program. In that time, I developed one of the most advanced electrical control systems firms in southern California, with annual sales of approximately $3.5 million. My major clients included Bechtel, Ralph M. Parsons, Fluor, and all of the major oil companies. Our market was the petroleum and power industries. For 10 years, this industry flourished, providing me with one of the largest commercial contracts awarded to a minority firm for the Aleyska pipeline project. By the early 1980's I had acquired a proven management and manufacturing capability.

Due to the decline in the petroleum and power industries, we made a decision to diversify our manufacturing capability from electrical-mechanical to electronic manufacturing. This diversification saved the jobs and skills of 50 people, and now we project an additional 500 employments over the next 4 years. This is principally due to the 8(a) Pilot Program.

The Federal Aviation Administration's requirement is for the design, development, and production of 600 airport remote-monitoring systems, or ARMS. These electronic systems will enable the FAA to automate and maintain the maintenance of their instrument landing systems through electronic monitoring and control of the systems. The ARMS will allow the performance of the ILS to be monitored, controlled, and certified from a centralized work center. The remote maintenance concept will provide the agencies with a significant return in their investment, with substantial savings in operations and manpower costs.

This multiyear, multimillion-dollar project has been the high point of three long, exhaustive years of marketing for our company. Prior to this project, our total 8(a) sales represented less than $1 million. Although we are grateful for those opportunities, those projects were not of high-technical nature nor did they represent a challenge to our manufacturing capability.

Our experience in identifying those projects and in marketing Federal installations revealed that a majority of 8(a) requirements under the 8(a) program are "build to print" and normal spare parts. Though an 8(a) firm may gain manufacturing and quality-assurance experience from performing on a build-to-print contract, such contracts do not lend themselves to develop the engineering, design, and expertise required for product development opportunities; 8(a) contracts with design and development requirements are few and far between. It is those types of contracts that give the

companies the skills to successfully compete in both the commercial and Government markets.

To brief you on the status of the FAA requirements since New Bedford's selection as a Pilot Program contract recipient, the following has taken place: We now have in place a full electronics manufacturing facility with state-of-the-art capability. In the month of March we successfully passed the preliminary design and review. We now are looking forward to June to successfully pass our critical design review.

The DOT pilot contract has been critical in the development of my company. I urge you to continue the Pilot Program as an integral part of the 8(a) program.

In summary, I would like to state the following. This program has now allowed me to hire additional personnel, acquire equipment, and develop the experience necessary to successfully fulfill the intent of the 8(a) Pilot Program. It is essential that the Pilot Program continue because of the unique procurement opportunities they provide, specifically by performing multiyear high-technology requirements. This will develop those skills that make us more competitive.

In addition, jobs in my community are created and maintained over a period of years. The Government further would benefit by receiving lower, more competitive prices for the product it buys. In addition, the Government will receive additional tax revenue.

I do not feel that the ARMS contract would have been ours without this Pilot Program. In fact, I know it wouldn't have. This is the only way that we could have done that. The SBA assisted us in procurement by providing technical assistance through its small contract program. The SBA also assisted us in the startup with the advanced-payment program and helped us in expanding our manufacturing capabilities through the BDE.

I strongly suggest that to improve this program, if this legislation is adopted, adequate geographical representation in the Pilot Program requirements is necessary. In my view, since the program is administered in the Washington, DC, area, it is natural that the firms in the surrounding geographical area have greater access to those opportunities. If I may, I would suggest a form of advertising to make those 8(a) firms in the Midwest and Western States more knowledgeable of the information regarding future pilot programs.

Again, I would like to thank the SBA, DOT, and the FAA for selecting our firm as a Pilot Program recipient, and thank you, Mr. Chairman, and members for allowing me to speak on behalf of our community and the 8(a) Pilot Program.

Senator WEICKER. Thank you very much, Mr. Ozuna.

Our next witness is Dr. Lee Wan.

Dr. Wan.

STATEMENT OF DR. LEE WAN, PRESIDENT, LEE WAN & ASSOCIATES, INC., DECATUR, GA

Dr. WAN. Mr. Chairman, my company, a consulting engineering firm, was founded in 1978, 8 years ago, as a single employee that was myself, in my basement. The company was certified into the 8(a) program in 1979 and has since grown to a 130-employee compa-

ny, at the present time offering total-scope consulting engineering services, including applied research and development.

In 1983 we began preparation for graduation, and the way to prepare for it is through diversification and also applied research and development. We have targeted that hazardous waste management in the research and development field will provide the opportunity for further growth and thrust for the company to maintain its activities after 8(a).

The Pilot Program certainly offers us the opportunity to get our foot in the door with the DOT Research and Special Program Division. We have a very talented employee in the company that offers the foundation for participating in the program, and we have performed very good work ever since. There are five tasks, very sophisticated, specialized tasks, in the Pilot Program that we are contracted for. The purpose of it is to study the safe mode of transportation for acutely toxic materials and also to examine the criteria and standards that currently are utilized in the industry for safeguarding public life.

We feel that without the Pilot Program, we would not have had the opportunity to perform such a specialized and important task or project because usually it is an area that is either reserved for or participated in only by very large companies. And with our participation of the program that our company has established a track record, a very good track record, that enabled us to draw the attention and provide the credibility to other Federal agencies such as EPA, DOD, and State Department. Currently we are either being selected or negotiating for similar types of sophisticated specialized contracts with them.

We feel that the Pilot Program should be expanded and continued so that it can provide similar or better opportunities for other 8(a) firms. We also recommend that an overview committee be established to assure the intents of the program are fully carried out.

Last, our project is a 3-year project and only has three-quarters of a million dollars total funding in it. We are into the second year of performance, and we have faced certain funding cuts and uncertainties for the program. We feel it is a very important program, and it involves national importance and public safety which should be exempt from funding uncertainties.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Wan follows:]

engineers
architects
surveyors

LEE WAN & ASSOCIATES, INC.
ATLANTA INTERNATIONAL INDUSTRIAL PARK
3342 International Park Drive, S.E., Atlanta, Georgia 30316
404-243-4223

TESTIMONY ON SBA 8 (A) PILOT PROGRAM
SENATE COMMITTEE ON SMALL BUSINESSES
MARCH 27, 1986

Mr. Chairman and Members of the Senate Small Business Commitee:

My name is Lee Wan, President and Chief Operating Officer of Lee Wan and Associates, Inc. It is a priviledge and honor to be able to appear before this Committee and provide testimony on such an important matter for our firm as our participation in the SBA 8(a) Pilot Program.

In order for you to fully understand the importance of this program to us, I would like to acquaint you with the development of Lee Wan and Associates, and it's role as a SBA 8(a) firm. Since our beginning eight years ago, we have grown from a single-employee, structural engineering firm to a multidisciplined firm with over 130 employees offering architectural, engineering and research and development services. We enjoy a reputation of high performance with virtually every federal agency and continue to receive new work assignments based on our track record.

In addition to the hard work and dedication of many skilled professionals in our firm, we feel that our success has been fostered by "spirit" of the SBA 8(a) Program. This program has allowed agency contract representatives to consider us for work and, once convinced of our capability, has provided a convenient vehicle for expeditious procurement of highly qualified services to the federal government.

Moreover, we feel that the SBA 8(a) Pilot Program has had a positive impact on the recent growth of our firm. It has allowed move into a specialized field which is essential to our firms's future diversification plans. It has also allowed us to complete more effectively against larger firms without having to bear enormous technology development costs. And finally, it has provided a means for the contract agency to assign critical, highly technical work tasks over a relatively short execution period.

I would like to describe how we became involved in the 8(a) Pilot Program. In mid-1984, Lee Wan and Associates, Inc. decided that the area of hazardous waste and hazardous materials management held considerable promise for the diversification and growth of our firm. A strong basis for our desire to move into this specialized field came from having several key individuals in our

firm with significant experience in the area. However, at that time, we did not have any work in the field to serve as demonstrated corporate experience. After four months of conducting business development activities with numerous prospective governmental clients, our first major project involving hazardous materials management came from the Department of Transporation's Research and Special Programs Divison. This was a three year contract for $750,000 under the 8(a) Pilot Program. Since then, we have been given five task assignments from DOT. They are:

Task 001 - Analysis and Evaluation of the Impact of United Nations Explosives Regulations

Task 002 - Development of Test Methods for Flammable Solids

Task 003 - Evaluation of Toxicity Hazards in Transportation

Task 004 - Anaylsis of Runaway Chemicals Reaction Risk in Transportation Modes

Task 005 - Assessment of the Structural Adequacy of Cargo Tanks in Collision and Overturn Accidents

Of particular importance are Tasks 003 and 004 which provide technical assistance in the development of transportation criteria and standards for hazardous materials. This activity will be very important for the safe transportation of acutely toxic materials and we are proud to be a part of such an important national program. We are also proud to note that DOT has been pleased with our performance on each of these Tasks.

With regard to specific questions the Committee has on the SBA 8(a) Pilot Program issue, we offer the following comments:

a) What advantages have you experienced as a participant in the 8(a) Pilot Program?

Both the contracting agency and the contractor have derived benefits from the 8(a) Pilot Program. It allowed us to provide specialized services in a competitive, highly technical field. It also allowed the DOT an opportunity to receive skilled technical assistance on an extremely important public issue in an expeditious manner without lengthy procurement procedures.

b) Do you feel an extension of the program is necessary and reasons why?

Yes, an extension of the program is both appropriate and beneficial. In part, we believe this because it lets small firms compete with large firms that have large sums of capital available for the development of specialized technical fields.

c) Do you feel that you would have been awarded your present contract without the aid of the program?

No, we do not feel that we could have gotten this contract without the 8(a) Pilot Program. To date, the 8(a) pilot contract has been our only major procurement with a federal agency in the field of hazardous waste and hazardous materials management. There have been recent notices by EPA and other agencies about upcoming 8(a) procurements in this field; however, no formal RFP's have been issued. Also, under non-8(a) procurements, small firms are forced to work as subcontractors to large firms who have long term government contracts instead of taking the lead.

d) Are you aware of the Surety Bond Waiver provision of the Act, did you attempt to utilize it and do you feel this provision is necessary?

We were not aware of the Surety Bond Waiver. Professional liability is a significant consideration in fields such as hazardous waste and hazardous materials management. If given an opportunity to use this vehicle, many small firms starting out could be assisted by this provision.

e) What assistance has been provided by SBA or the procuring agency that was not offered to you before entering the pilot program?

We are very proud of our working relationship with the staff from the Research and Special Programs Division of DOT. The 8(a) Pilot Program has allowed us to work closely with them on a level that is conducive for high-quality performance.

f) What suggestions do you have for improvement of the program if this legislation is adopted?

Based on the success of our 8(a) Pilot Contract, we suggest this program be expanded so that more 8(a) firms can participate. Also, to enhance the success of these projects, we recommend that periodic review meetings be conducted between the 8(a) firm and delegated representatives of SBA and the procuring agency. An 8(a) Pilot Program overview committee should also be established to ensure that the program's objectives are being met. This Committee could consist of delegates from successful 8(a) Pilot Contracts as well as representatives from SBA and active procuring agencies. We have noted that our program, in spite of

being a pilot project, has experienced the same funding and Task assignment uncertainties as any traditional government project. Hopefully, the recommendations noted hearin will improve the importance of this program.

Thank you for your consideration of these comments. Should you have any questions, I will be glad to answer them.

Senator WEICKER. Thank you very much, Dr. Wan.
Our last witness is Mr. Robert L. Jones.
Mr. Jones, it's nice to have you here.

STATEMENT OF ROBERT L. JONES, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, AMAF INDUSTRIES, INC., COLUMBIA, MD

Mr. R. Jones. Thank you, sir. I would like to extend my thanks for being asked to come and testify today here. I much appreciate it.

AMAF Industries is a company that is involved in research, development, engineering, and manufacturing. We are located in Columbia, MD. The Pilot Program has been very important to us mainly because it has allowed us to do what the overall 8(a) program has intended; that is, assist in development. We received from the U.S. Coast Guard a contract to design, develop, build, and install their communications stations worldwide. So it is a pretty extensive program, and it goes on for a number of years.

This has allowed us to upgrade our research and development activities, our quality control, our manufacturing controls, and what have you. There is obviously a need for the Pilot Program. In reviewing some of the testimonies of people who will appear subsequently, it seems like on the part of some agencies that there is no need for a Pilot Program. Having been involved in the 8(a) program for a number of years, the proof is, as you might say, in the pudding. If you look at the type of contracts, the magnitude, and the extent of the technology in most of the contracts heretofore, they have not even approached the complexity of those in the Pilot Program. Obviously, there is resistance. Otherwise, there would not be this hearing and we would not have an 8(a) program.

I think that Congressman Mitchell hit on a subject which I find interesting. He mentioned that of a "club." I think the true club in the Pilot Program is not the authority given to the SBA to designate which contract a contractor should get, but the club which comes from the U.S. Congress because in fact the reason that we have been successful in obtaining contracts of the magnitude which we have under the Pilot Program—and I might also say for my colleagues—is the visibility which the Congress has given the Pilot

Program which it does not normally give to the 8(a) program. Washington is a town in which people seek to avoid visibility.

The Pilot Program is such that by its very nature it is highly visible. Therefore, when a person is chosen to do a contract under the Pilot Program, Congress automatically takes note of it, and that is the true club. Therefore, it will require a lot of agencies perhaps to do more work and to do things which they perhaps would not have done. But the fact of the Pilot Program's existing, they have to do it, they know it will be reviewed by Congress, and I think that lends a lot more objectivity to their determination of whether or not you get a contract. There are internal pressures and external pressures. The internal pressure, of course, is still based, in my opinion, on the fear of the people in the bureaucracy that if they chose a company to do a highly technical job worth a lot of money, that the company might not do a correct job and as a consequence of it, they would be blamed and their career might be damaged.

The external pressures are obvious. There are large business pressures. What Congress does—and the SBA, but the Congress specifically—it nullifies big business pressure when someone sets aside a reasonable size program for the pilot.

And also, and most important, is that under the Pilot Program mechanism, the SBA shares in the blame on performance of the contract because even though SBA has been reluctant to use the club—and it's understandable; perhaps if I were in the SBA I would be reluctant also—if the company fails, then the agency can say, well, SBA helped in the choosing of the company. Therefore, the Pilot Program has been effective from a practical point of view mainly because of congressional oversight, visibility, and the fact that a lot of the anxiety is alleviated due to the fact that the SBA shares in whatever happens in the Pilot Program.

So in my opinion, the Pilot Program is needed. I hope it is continued. If it is not continued, you will see what you have seen before the Pilot Program, the contracts will look great on paper when they are accumulated but the meaningfulness of the contracts will be very little. Thank you, sir.

[The prepared statement of Mr. R. Jones follows:]

TESTIMONY OF ROBERT L. JONES, CHAIRMAN, CEO
AMAF INDUSTRIES, INC.
SENATE SMALL BUSINESS COMMITTEE
MARCH 27, 1986

My name is Robert L. Jones, Chairman and Chief Executive Officer of AMAF Industries, Inc. On behalf of AMAF Industries, I wish to take the opportunity to thank you for inviting me to testify at this hearing in order that I can acquaint you with AMAF Industries and how Public Law 95-507 and the pilot program has assisted our firm.

AMAF Industries, Inc., provides contract products and services involving the high-technology disciplines of research, development, systems engineering, and manufacturing for government and industry. As a participant in the 8(a) pilot program, AMAF was able to obtain from the U.S. Coast Guard a contract which utilizes and develops all of these high-technology disciplines. The first phase of the contract is to design, develop, build, and install a communications station prototype or mockup; the second phase is to build a first article of this communications station; and the third phase is to build and install the system in nine locations throughout the world. As previously stated, this contract requires the utilization of all the skills and expertise that have been developed at AMAF in research, development, systems engineering, and manufacturing. The requirements of the contract necessitated the upgrading of AMAF quality assurance, engineering and manufacturing control systems, and as a consequence thereof, has directly contributed to the development of the business.

A question which has often been raised is whether or not AMAF would have been awarded this contract without the pilot program? After considerable reflection, I am of the opinion that AMAF would not have received this award if not for the pilot program. There are two primary reasons why I hold this opinion: (1) the resistance of the various government agencies to award quality high-technology contracts to minority firms; and (2) pressure inside and outside of the agencies not to award such contracts to 8(a) companies. The fact that Congress in its wisdom has created the 8(a) program and the existence of this hearing is evidence that such resistance exists. Some of the resistance is possibly justified due to the lack of technological sophistication of some firms in the 8(a) program. However, most of the resistance is due to the fact that the firms are small and minority and/or women owned. This resistance is reinforced by internal and external pressures on the persons seeking to let the contract that perhaps they should reconsider going the 8(a) route.

The internal pressures are due mainly to <u>fear</u>. Fear that if the contract is not performed properly then blame would be assessed and careers damaged. External pressure comes from businesses outside of the 8(a) program, usually big business. These larger businesses usually receive the lion share of quality high-technology procurements, that is, procurements which provide long-term business development. These are very powerful companies. These companies have been very successful in pressuring the agencies to change and not reward the quality high-technology requirement to an 8(a) company.

Under the pilot program, there are countervailing forces which alleviate these pressures. The main force is Congress itself. Requirements placed under the 8(a) pilot program are monitored and scrutinized by committees of the Congress. This congressional oversight counteracts the pressure exerted by large business on the agencies. In addition, the SBA, under the pilot program, provides leadership in choosing the requirement and makes a request to the agency that the effort be set-aside as part of the 8(a) pilot program. This alleviates the fear within the agency of being blamed for making the wrong choice by going to an 8(a) company with a quality high-technology contract. If the 8(a) company fails, the SBA shares the blame. The practical effect is larger, better procurements as part of the 8(a) program due to the pilot program. These higher quality procurements are needed to develop and sustain these businesses.

Senator WEICKER. Thank you very much.

Now I am going to do something a little bit out of order here because I just got a message that at 10:15 a.m. a vote occurs on the Kennedy amendment to delete all aid to the Contras. So I am going to have to go to the floor for that and vote with Senator Kennedy, take the money, and go ahead and use it in the 8(a) program. [Laughter and applause.]

If you gentlemen would just step back because I am going to quickly run in our friends from the Department of Transportation and from the Small Business Administration so I might ask just a couple of questions. They can submit their questions for the record. That will possibly allow me to fire a couple of questions before I have to run to the floor.

So if you could just step back for a second. Stay in the room, please.

If I could have Mr. Jon Seymour, Secretary for Administration, Department of Transportation; and Wilfredo Gonzalez, Associate Administrator, Office of Minority Small Business Capital Ownership Development, Small Business Administration.

If you gentlemen would step forward, I am going to ask some questions here, and then we will be ready to go.

STATEMENT OF JON H. SEYMOUR, ASSISTANT SECRETARY FOR ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Senator WEICKER. Mr. Seymour, first of all, your statement in its entirety will be included in the record as if read at this juncture.

[The prepared statement of Mr. Seymour and the questions and answers from DOT follow:]

STATEMENT OF JON H. SEYMOUR
ASSISTANT SECRETARY FOR ADMINISTRATION,
OFFICE OF THE SECRETARY, DEPARTMENT OF TRANSPORTATION
BEFORE THE COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE
MARCH 27, 1986

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM JON SEYMOUR, ASSISTANT SECRETARY FOR ADMINISTRATION IN THE OFFICE OF THE SECRETARY, DEPARTMENT OF TRANSPORTATION. BOTH SECRETARY ELIZABETH DOLE AND DEPUTY SECRETARY JAMES BURNLEY SEND THEIR REGRETS THAT SCHEDULE CONFLICTS PROHIBIT THEIR APPEARANCE TODAY.

THE DEPARTMENT OF TRANSPORTATION APPRECIATES THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS H.R. 2787, A BILL TO EXTEND THROUGH FISCAL YEAR 1988 SBA PILOT PROGRAMS UNDER SECTION 8 OF THE SMALL BUSINESS ACT.

ON OCTOBER 31, 1985, DOT'S WRITTEN COMMENTS ON H.R. 2787 WERE PROVIDED TO THE HOUSE COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES. A COPY OF THAT LETTER IS ATTACHED. THIS MORNING I WOULD LIKE TO DISCUSS OUR EXPERIENCE UNDER THE PILOT PROGRAM AND SPECIFICALLY ANSWER THE QUESTIONS RAISED IN YOUR MARCH 18, 1986 LETTER.

WE BELIEVE THE DEPARTMENT HAS AN EXCELLENT RECORD OF AWARDS TO SMALL DISADVANTAGED BUSINESSES. THE FOLLOWING TABLE SUMMARIZES MINORITY CONTRACTING RESULTS.

MINORITY CONTRACTING RESULTS

(DOLLARS IN M)

FISCAL YEAR	TOTAL PROCUREMENT	TOTAL MINORITY*	8(a) PROCUREMENT	TOTAL % MINORITY
1978	1,125	112.2	34.2	10.0
1979	1,512	93.8	50.4	6.2
1980	1,401	148.3	89.1	10.6
1981	1,736	133.2	87.5	7.7
1982	1,447	150.9	97.2	10.4
1983	1,564	208.7	150.0	13.4
1984	1,663	235.7	174.2	14.2
1985	2,415	302.8	227.9	11.8
1986 (GOAL)	1,736	242.0	199.7	13.9

* INCLUDES DIRECT AWARDS TO MINORITIES OUTSIDE THE 8(a) PROGRAM, 8(a) AWARDS AND SUBCONTRACT AWARDS.

SOURCE: MINORITY BUSINESS DEVELOPMENT AGENCY, FY 1984 REPORT "FEDERAL AGENCY PERFORMANCE IN MINORITY BUSINESS DEVELOPMENT."

EVERY PROPOSED PROCUREMENT ACTION IS SCREENED FOR POSSIBLE PLACEMENT IN THE 8(a) PROGRAM BEFORE IT IS CONSIDERED FOR A SMALL BUSINESS SET ASIDE OR UNRESTRICTED COMPETITIVE PROCUREMENT. WE RECOGNIZE THAT SMALL DISADVANTAGED BUSINESS ENTREPRENEURS HAVE TRADITIONALLY NOT BEEN AFFORDED EQUAL OPPORTUNITY TO DEVELOP AS OWNERS AND MANAGERS OF AMERICAN BUSINESS. THE SECRETARY AND DEPUTY SECRETARY ARE COMMITTED TO PROVIDING THESE COMPANIES A FAIR OPPORTUNITY TO PARTICIPATE IN THE DEPARTMENT'S PROCUREMENTS.

BASED ON OUR EXPERIENCE, WE BELIEVE THAT MANY OF THE OBJECTIVES OF THE PILOT PROGRAM CAN BE ACHIEVED THROUGH THE REGULAR 8(a) PROGRAM. WE HAVE ESTABLISHED A CLOSE COOPERATIVE WORKING RELATIONSHIP WITH SBA, AND HAVE WORKED CLOSELY WITH SBA AND THE 8(a) COMMUNITY TO IDENTIFY PILOT 8(a) CONTRACT OPPORTUNITIES. TO

DATE, WE HAVE AWARDED TWELVE CONTRACTS UNDER THE PROGRAM, AND MAY AWARD AN ADDITIONAL ONE CONTRACT IN THE NEXT YEAR. THIS LAST AWARD WOULD BE FOR A CONTRACT IDENTIFIED DURING THE PERIOD THAT DOT WAS THE PILOT AGENCY. THE DETAILS OF THESE CONTRACTS ARE PROVIDED IN THE MONTHLY STATUS REPORT TO THE HOUSE COMMITTEE AND WE HAVE PROVIDED A COPY OF THE MOST RECENT REPORT TO THE COMMITTEE STAFF. OVER THE NEXT FEW YEARS, WE WILL CONTINUE TO EXERCISE OPTIONS, AS APPROPRIATE, FOR ADDITIONAL WORK UNDER THE PILOT CONTRACTS.

MR. CHAIRMAN, THIS COMPLETES MY FORMAL STATEMENT. THE ANSWERS TO THE SPECIFIC QUESTIONS YOU RAISED ARE INCLUDED AS AN ATTACHMENT TO THIS STATEMENT. WE WILL BE HAPPY TO RESPOND TO ANY QUESTIONS YOU OR MEMBERS OF THE COMMITTEE MAY HAVE.

Enclosure 1

QUESTIONS FOR THE DEPARTMENT OF TRANSPORTATION

1. If the 8(a) Pilot Program is re-instated, would it be more appropriate to leave it with DOT or test its viability with another agency?

   The bill to extend the 8(a) Pilot Program requires the President to select an Executive Department to serve as the pilot agency within 60 days of the enactment of the legislation. Even though the Department of Transportation has an excellent record of awarding contracts to 8(a) firms, we believe that it would be in the best interest to the 8(a) Pilot Program to test its viability with another Department or agency. Selecting another Department or agency would broaden the range of experience in evaluating the effectiveness of the 8(a) Pilot Program.

FAA:

2. Describe the efforts made by DOT, since the Pilot expired, to continue to select sophisticated and high technology requirements as set-asides for 8(a) firms. Please name specific contracts awarded or being negotiated since the Pilot expired.

   Since the Pilot Program expired, we have continued to select sophisticated and high technology requirements as set-asides for 8(a) firms. The following are some examples from the Federal Aviation Administration (FAA), the U.S. Coast Guard (USCG), and the Office of the Secretary (OST).

FAA

- A contract is being negotiated for installation of High Frequency Single Side Band Systems for the National Radio Communication Systems program with the 8(a) firm of Systems Management America. The estimated cost is between $15 million and $20 million over a four year period.

- A contract is being negotiated for Enhanced System Maintenance Monitor Consoles, which are used to monitor and control most of the Air Route Traffic Control Center facilities, services, and equipment, with the 8(a) firm of Systems Management America. The estimated cost is $11 million over 2 years.

- Two contracts are being negotiated with the 8(a) firms of Washington Consulting Group and Systems Requirements and Services Associates, Inc., for training of air traffic controllers in Air Route Traffic Control Centers. The combined cost of these two contracts is estimated to be in excess of $30 million per year, for 2 years.

- A contract for technical services to support the Mode S Program was awarded to the 8(a) firm of Minority Services, Inc., for an amount of $1.9 million.

- A contract was awarded to the 8(a) firm of Computer Technical Associates for technical services to support the Advance Automation Program at a total five year estimated cost of $15 million.

USCG

- A requirement to install surface search radars, which are used in the C-130 fleet, is in the final 8(a) contractor selection process. The estimated cost is $5 million over a 5-year period.

- A contract was awarded to Richard J. Otero for the design and engineering support for very high frequency direction finders. The estimated cost is $3 million over a 3-year period.

- A cost comparison of contractor versus Government performance is being conducted between PSI International, Inc., and the Coast Guard to determine the lowest cost to operate a system concerning the licensing of mariners and vessels. The estimated cost is between $5 million and $10 million over a five-year period.

OST

- A contract to support the computer operations of the Federal Railroad Administration, Maritime Administration and the National Highway Traffic Safety Administration was awarded to the 8(a) firm of Micro Computer Systems, Inc. The contract was awarded as a result of a cost comparison between the 8(a) firm and the Department. The estimated cost is $2.5 million over 2 years.

- o A requirement to provide computer operators and tape librarians to support the Department's Transportation Computer Center has been set-aside for an 8(a) firm. We are currently conducting technical competition among 8(a) firms and then the most qualified firm will be selected for negotiations. The estimated cost is between $3 million and $5 million over three years.

We are in the process of reviewing the capability of 8(a) firms for other large projects, and believe the number of large awards should continue to increase.

3. What was the largest contract awarded to an 8(a) firm before the pilot program? How does this compare to awards made to pilot participants?

   A $20 million contract was awarded to Input Output Computer Services, Inc., for the five-year lease of the Interim Voice Response System, used by pilots to access weather information. The requirement was set-aside for the 8(a) program prior to the Department being designated as the Pilot 8(a) Department. Award was made in December 1984.

   For comparison, the contracts awarded under the Pilot Program by the FAA are as follows:

Contractor	Description	Awarded To Date	Additional Phases	Total Estimated Value
Sonicraft, Inc.	Radio Control Equipment	$14.5M	$42.0M	$56.5M
Amex Systems, Inc.	Automated Weather Observing Station	2.9M	39.5M	42.4M
System and Applied Sciences Corporation	Very High Frequency Direction Finder System	8.9M	50.0M	58.9M
New Bedford Panoramex	Airport Remote Monitoring System	10.0M	40.0M	50.0M

   The largest contract awarded by the USCG was to Bay City Marine, Inc., in the amount of $15 million, in September 1982, for a 140' Ice Breaking Tug.

For comparison, contracts awarded under the Pilot Program by the USCG are as follows:

Contractor	Description	Awarded To Date	Additional Phases	Total Estimated Value
Six Carpenters	Construct Medical Care Centers at OTIS National Guard Base	$3.5M	$ 0	$3.5M
Gemini Construction	Rehabilitate Barracks at USCG Training Ctr.	.9M	.0	.9M
General Railroad Equipment	Design & Manufacture Telescoping Helicopter Hangers	.7M	5.3M	6.0M
AMAF Industries, Inc.	Design, Construct and Maintain Communication Station Control Systems	4.7M	8.0M	12.7M
Pending a decision	Construct USCG Operating Station at Crisfield, MD			2.4M
Technical and Management Services Corp.	Computerized Maintenance System Development	.3M	3.3M	3.6M

USCG:

4. What will be the decision on construction of an operating station at Crisfield, Maryland which was a pilot program set-aside? Will this project remain a set-aside?

   The decision on the construction of the station has not been made but is expected in the very near future. If the decision is to proceed, the project will remain in the Pilot Program.

5. Why was construction of the New Operation Station at Curtis Bay, Maryland withdrawn from the pilot program? Why did the Coast Guard proceed to openly compete this requirement without giving SBA the opportunity to provide a name of another 8(a) contractor to perform the requirement.

The Coast Guard awarded a contract to Batchelor Construction Co., an 8(a) firm, on August 19, 1985, to build the new station. On October 24, 1985, the Small Business Admnistration (SBA), Richmond, Virginia, advised the Coast Guard that Batchelor could not obtain a bond, and the Coast Guard terminated the contract. SBA, Richmond, Virginia, was given 60 days after their notice to the Coast Guard of Batchelor's inability to obtain bonding to provide a solution to Batchelor's problem. When they were unable to do so, no further attempt was made to award to an 8(a) firm since the urgency of the requirement did not offer sufficient time to locate another qualified 8(a) company and negotiate a contract with the firm. Therefore, the project was advertised and awarded competitively as a small business set-aside on March 13, 1986.

6. Since 1983, the year DOT was designated Pilot Procuring Agency, the number of contract awards to 8(a) firms increased dramatically from 50% to more than a 100%. Apparently, the pilot designation did make a difference. What reasons would you give for these increases?

We agree that the Department continues to have an excellent record in 8(a) awards and that the 8(a) contract award dollar have increased substantially since 1983. There are a number of reasons for these results. First, the program has the full support of Secretary Dole and Deputy Secretary Burnley. Second, our total procurement dollars increased primarily as a result of the increase in funding for the FAA's National Airspace System program and the Coast Guard's fleet modernization program, providing more opportunities for 8(a) awards. Third, the capabilities of 8(a) contractors continue to increase, allowing a better chance that these contractors can meet our needs. As a percentage of total procurement dollars however, the awards to 8(a) firms has remained relatively constant since 1983 as shown on the table below.

The awards for the regular 8(a) program and the Pilot Program are as follows:

	FY 83	FY 84*	FY 85*
Total DOT Procurement	$1,563,700	$1,663,344	$2,415,000
8(a) Awards	$ 149,970	$ 174,247	$ 227,980
Percentage of 8(a) awards	9.6	10.5	9.4
Actions	1,106	1,149	1,019

*Total Pilot awards for Fiscal Years 1984 and 1985 - thirteen actions for $48.7 million which are included in the above figures.

Senator WEICKER. Let me ask you a very simple question. Is the Department for or against the continuation of the Pilot Program?

Mr. SEYMOUR. We think, Mr. Chairman, that the objectives of the Pilot Program can be met through the regular 8(a) program. I might go on, if I may.

Senator WEICKER. Let me say one thing to you. I think the Department of Transportation has carried the spirit of this law in an exemplary fashion. I want you to know that we appreciate that.

Mr. SEYMOUR. We took the effort very seriously, sir.

Senator WEICKER. Well, I am not here to criticize. But why do you think, since it has been successful and has been testified to as being successful, that it can be accomplished under the regular 8(a) program when indeed it wasn't before you people came aboard and before we had the pilot program?

Mr. SEYMOUR. A couple of reasons. One, virtually all the provisions that are in the Pilot Program are available within the 8(a) program. The special counseling and the help by SBA and that kind of thing are all available through the regular program. The one major difference is the SBA's authority to finally select and designate the contractor, which is not present in the regular 8(a) program.

I might point out that in the 12 contracts which have currently been let by the Department and the SBA under the Pilot Program, four are particularly large, the four associated with the FAA NAS plan. Those, I think, gave us a unique opportunity to do some contracting in a large-dollar arena and in a high-technology arena because of the FAA's particular situation vis-a-vis the NAS plan at the time.

The other contracts, I think, are very good contracts, but they're much more typical of the contracts that we would see through the regular 8(a) program. We happen to take the 8(a) program, as I am sure you know, Mr. Chairman, seriously also. So we think that the four FAA contracts, which are the ones that are typically held up as the model of our effort, are a somewhat unique opportunity. We hope to pursue more opportunities like that through the regular 8(a) program. That's the basis for our feeling.

STATEMENT OF WILFREDO J. GONZALEZ, ASSOCIATE ADMINISTRATOR, OFFICE OF MINORITY SMALL BUSINESS CAPITAL OWNERSHIP DEVELOPMENT, SMALL BUSINESS ADMINISTRATION

Senator WEICKER. Mr. Gonzalez, your statement in its entirety will be included in the record as if read at this point.

[The prepared statement of Mr. Gonzalez and the question for SBA follow:]

SBA

U.S. Small Business Administration
Washington, DC 20416

STATEMENT OF
WILFREDO J. GONZALEZ
ASSOCIATE ADMINISTRATOR FOR
MINORITY SMALL BUSINESS AND CAPITAL
OWNERSHIP DEVELOPMENT
SMALL BUSINESS ADMINISTRATION

BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

MARCH 27, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THIS OPPORTUNITY TO PROVIDE YOU WITH THE SMALL BUSINESS ADMINISTRATION'S VIEWS ON THE EXTENSION OF THE 8(A) PILOT PROCUREMENT PROGRAM AND THE 8(A)(2) SURETY BOND WAIVER PILOT PROGRAM.

MR. CHAIRMAN, THE 8(A) PILOT PROCUREMENT PROGRAM HAS HAD MIXED RESULTS SINCE ITS INCEPTION IN 1978 TO DATE. THIS COVERS THE PERIOD FROM THE DEPARTMENT OF THE ARMY BEING DESIGNATED AS THE INITIAL PILOT AGENCY IN 1979 THROUGH OUR CURRENT PILOT WITH THE DEPARTMENT OF TRANSPORTATION WHICH EXPIRED ON SEPTEMBER 30, 1985.

THE SBA BASED ON THIS RECORD, DOES NOT BELIEVE THAT THE PILOT APPROACH IS CONDUCIVE TO A LONG TERM, EFFECTIVE WORKING RELATIONSHIP BETWEEN SBA, PROCURING AGENCIES, AND 8(A)

COMPANIES. THE PILOT GIVES SBA SOMEWHAT OF A "CLUB" WHICH WE DON'T FEEL IS NECESSARY TO OBTAIN MORE AND NONTRADITIONAL REQUIREMENTS FOR THE 8(A) PROGRAM. WE BELIEVE THAT THE OBJECTIVES OF THE LEGISLATION CAN BE HANDLED AS WELL UNDER THE REGULAR 8(A) PROGRAM.

WE FEEL EVEN MORE STRONGLY AGAINST EXTENDING THE SURETY BOND WAIVER PILOT. SBA HAS REGULATIONS IN PLACE TO ADMINISTER THE CURRENT PILOT BUT WE HAVE RECEIVED NO REQUESTS FOR A SURETY BOND WAIVER FROM A SECTION 8(A) CONCERN SINCE THE ORIGINAL ENACTMENT OF THE AUTHORITY TO WAIVE BONDS. NOTICE HAS BEEN SENT TO OUR FIELD OFFICES TO REMIND THEM OF THIS AUTHORITY. SBA OPPOSES EXTENSION OF THE AUTHORITY FOR SEVERAL REASONS.

FIRST, SUCCESSFUL OPERATION OF A SURETY PROGRAM REQUIRES THE EVALUATIVE SKILLS AND JUDGMENT OF COMMERCIAL SURETY COMPANIES COUPLED WITH INFORMATION ABOUT THE PAST EXPERIENCE OF THE CONTRACTOR. FOR SBA SURETY BOND PERSONNEL TO BOTH TAKE ON THE SURETY'S RESPONSIBILITY AND AT THE SAME TIME EXERCISE THAT RESPONSIBILITY IN MORE DIFFICULT CIRCUMSTANCES -- ON CONTRACTORS WITH LITTLE OR NO EXPERIENCE -- MAKES IT DIFFICULT TO ACHIEVE HIGH PROGRAM OPERATING STANDARDS AND ALSO CAN BE DISRUPTIVE TO THE REGULAR SURETY BOND PROGRAM.

SECONDLY, A BOND WAIVER PROVIDES LITTLE OR NO LONG-TERM BENEFIT TO AN 8(A) CONTRACTOR. THE PURPOSE OF THE SURETY BONDING PROCESS IS TO "PREQUALIFY" A FIRM. A FIRM THAT IS

FULLY BONDABLE IN THE PRIVATE SURETY BOND MARKET IS ASSUMED TO BE "PREQUALIFIED" FOR PURPOSES OF BIDDING ON CONTRACTS. BUT EVEN IF AN 8(A) FIRM SHOULD SATISFACTORILY PERFORM A CONTRACT UNDER A BOND WAIVER PROGRAM, IT STILL WOULD HAVE NO TRACK RECORD IN THE PRIVATE SECTOR SURETY BOND MARKET.

AT THIS TIME MR. CHAIRMAN I WOULD LIKE TO RESPOND TO THE SPECIFIC QUESTIONS WHICH YOU POSED IN YOUR LETTER INVITING MY TESTIMONY:

1. WOULD THE CONTRACTS INCLUDED IN THE PILOT PROGRAM HAVE BEEN AWARDED TO 8(A) FIRMS WITHOUT THE PILOT AUTHORITY?

WE ARE OF THE OPINION THAT THE CONTRACTS INCLUDED IN THE PILOT PROGRAM ARE TYPICAL OR NORMAL 8(A) CONTRACT AWARDS AND THESE REQUIREMENTS PROBABLY COULD HAVE BEEN OBTAINED UNDER THE REGULAR 8(A) PROGRAM. THE FAA'S PROJECT TO UPGRADE THE NATIONAL AIRSPACE SYSTEM, AND THE COAST GUARD'S TELESCOPING HANGAR REQUIREMENTS ARE TWO PILOT PROGRAM CONTRACTS WHICH MIGHT BE CONSIDERED BY SOME TO BE ATYPICAL 8(A) CONTRACTS. HOWEVER, WE HAVE NO OBJECTIVE EVIDENCE TO SUGGEST THAT THESE PROCUREMENTS COULD NOT HAVE BEEN OBTAINED UNDER THE REGULAR 8(A) PROGRAM.

2. WHAT SPECIFIC ASSISTANCE HAS SBA PROVIDED FOR PILOT PROGRAM PARTICIPANTS THAT IS NOT OFFERED OTHER 8(A) FIRMS?

THE ASSISTANCE PROVIDED FOR 8(A) PILOT PROGRAM PARTICIPANTS IS GENERALLY AVAILABLE TO ALL ELIGIBLE 8(A) FIRMS. HOWEVER, CENTRAL OFFICE SBA HAS BEEN MORE INVOLVED IN THE NEGOTIATIONS OF 8(A) PILOT PROJECTS THAN WOULD GENERALLY BE THE CASE WITH REGULAR 8(A) PROJECTS.

3. WHY HAS THE SURETY BOND WAIVER PROVISION NOT BEEN UNITILIZED BY 8(A) FIRMS?

FOR CONTRACTS OF UP TO $1 MILLION THE BONDING REQUIREMENTS OF 8(A) CONSTRUCTION FIRMS HAVE BEEN MET ADEQUATELY WITHOUT THE NEED TO PROVIDE A BOND WAIVER. FOR THOSE CONSTRUCTION CONTRACTS IN EXCESS OF $1 MILLION, WHEN SURETY BONDS WERE UNOBTAINABLE, THE 8(A) CONTRACTING FIRM WAS UNABLE TO REASONABLY DEMONSTRATE A CAPACITY TO PERFORM THE CONTRACT THE LACK OF WHICH, WOULD PRECLUDE SBA FROM WAIVING THE SURETY BOND REQUIREMENT.

4. WHEN DID SBA DISTRIBUTE REGULATIONS FOR IMPLEMENTATION OF THE BOND WAIVER PROGRAM TO FIELD OFFICES, AND WHEN WERE THESE REGULATIONS DISSEMINATED TO ALL 8(A) FIRMS?

POLICY AND PROCEDURES FOR WAIVER OF SURETY BONDS ARE PUBLISHED IN TITLE 13 OF THE CODE OF FEDERAL REGULATIONS PART 124.1-5. ON JULY 18, 1985, SBA NOTICE NUMBER 8000-34 WAS ISSUED BY THE THEN ACTING ASSOCIATE ADMINISTRATOR FOR MSB/COD TO THE CENTRAL OFFICE MANAGEMENT BOARD MEMBERS AND ALL REGIONAL ADMINISTRATORS AS A REMINDER THAT BID, PAYMENT, AND PERFORMANCE BONDS MIGHT BE WAIVED IN CONNECTION WITH AN 8(A) CONTRACT. DIRECT NOTICE OF THESE REGULATIONS WAS NOT GIVEN TO THE 8(A) FIRMS PER SE, RATHER THEY RECEIVED NOTICE WHEN THE REGULATIONS WERE PUBLISHED IN THE FEDERAL REGISTER ON DECEMBER 17, 1980.

5. HOW DOES THE FISCAL VALUE AND SCOPE OF THE 14 PROCUREMENTS IN THE PILOT PROGRAM COMPARE WITH REGULAR 8(A) AWARDS?

SOME OF THE REQUIREMENTS OFFERED BY FAA TO UP-DATE THE NATIONAL AIRSPACE SYSTEM EXCEEDED THE APPROXIMATE AVERAGE DOLLAR VALUE OF OVERALL REQUIREMENTS THAT WERE OFFERED UNDER THE REGULAR 8(A) PROGRAM, HOWEVER, THE DOLLAR VALUE OF PROJECTS OFFERED FOR THE PILOT PROGRAM BY THE REMAINING DOT MODEL ADMINISTRATIONS WERE GENERALLY COMMENSURATE WITH THE DOLLAR VALUE OF REQUIREMENTS OFFERED UNDER THE REGULAR 8(A) PROGRAM.

6. WHO IDENTIFIED THE PROCUREMENTS, SBA, DOT OR THE CONTRACTOR?

PRIMARILY, DOT IDENTIFIED THE 8(A) PILOT PROJECTS. HOWEVER, IN SOME INSTANCES, POTENTIAL PILOT PROJECTS WERE IDENTIFIED BY THE 8(A) FIRMS THROUGH THEIR SELF-MARKETING EFFORTS.

7. WHAT EFFECT HAS GRANTING OF PILOT AUTHORITY TO SBA HAD ON THE WORKING RELATIONSHIP BETWEEN SBA AND DOT?

SBA AND DOT OFFICIALS HAVE HISTORICALLY ENJOYED EFFECTIVE COMMUNICATIONS AND A STEADY WORKING RELATIONSHIP. WE BELIEVE THAT THIS IS DUE TO AN APPRECIATION BY EACH OF OUR RESPECTIVE RESPONSIBILITIES IN RELATION TO THE PROCUREMENT PROCESS. FROM SBA'S PERSPECTIVE THIS WORKING RELATIONSHIP HAS REMAINED CONSTANT THROUGHOUT THE PERIOD IN WHICH THE PILOT PROGRAM WAS IN EFFECT. WE HAVE ATTEMPTED TO AVOID THE USE OF THE PILOT AUTHORITY AS "CLUB", AN APPROACH WHICH WE FEEL WOULD UNDERMINE WORKING RELATIONS BETWEEN SBA, PROCURING AGENCIES SUCH AS DOT, AND 8(A) COMPANIES.

8. WHAT SUGGESTION DO YOU HAVE FOR IMPROVEMENT OF THE PROGRAM, IF THIS LEGISLATION IS ADOPTED?

WE CONTINUE TO BELIEVE THAT THE OBJECTIVES OF THIS LEGISLATION CAN BE ACCOMPLISHED AS WELL UNDER THE REGULAR 8(A) PROGRAM. HOWEVER, IF THIS LEGISLATION IS ADOPTED, WE CAN ONLY CONTINUE

TO STRIVE FOR PROGRAM IMPROVEMENT THROUGH GREATER PARTICIPATION BY SBA IN THE IDENTIFICATION AND SELECTION OF CONTRACTS TO BE AWARDED PURSUANT TO THE PILOT PROGRAM.

MR. CHAIRMAN, THAT CONCLUDES MY STATEMENT. I'LL BE PLEASED TO ANSWER ANY ADDITIONAL QUESTIONS YOU MAY HAVE.

QUESTION FOR THE SMALL BUSINESS ADMINISTRATION

1. You have testified that the additional authority provided by the pilot program is unnecessary. How many times has SBA successfully utilized the authority of the Administration to appeal, to the head of a Department or Agency, a Contracting Officer's decision not to award a specific requirement for the regular 8(a) program. Please list and describe the nature of all contracts appealed and the outcome, from January 1983 to the present.

Appeals, and Results, by Administrator of SBA to Agency Heads: 8(a) Program

Date of Appelas	8(a) Firm	Procuring Agency	Description of Requirement	Final Appeal Decision	Date of Response
12-14-84	Stic-Adhesive Products Co.	GSA	Manufacture enamels, flat paint & thinners	Denied	05-17-85
12-07-84	Dunn & Sons Maintenance	Army	Full food service	Denied	01-10-85
11-16-84	Systems Management	Air Force	Manufacture mini-computers	Denied	01-25-85
01-08-85	Ebon Services	Army	Facilities management	Denied	04-09-85
04-04-85	Alex Munoz/J. Craig Construction Co.	GSA	Construction	Denied	*
05-02-85	Environmental Health Resources & Testing	Army	Hazardous waste removal	Denied	06-17-85
06-07-85	G&H Mechanical	VA	Construction	Denied	07-09-85
06-12-85	J. Haizan & Sons, Inc.	DOI	Construction	Denied	07-22-85
07-08-85	Velez Construction	VA	Construction	Denied	07-29-85
07-25-85	J. B. Industries	Army	Operational support services	Denied	09-06-85
07-25-85	William Cargile Contractors, Inc.	Army	Construction	Denied	08-22-85
08-16-85	Ozanne Construction, Inc.	Navy	Construction	Denied	10-09-85

* 8(a) firm was allowed the opportunity to review specification, but the firm would not accept the project because it could not be performed for the dollar amount specified.

Date of Appeals	8(a) Firm	Procuring Agency	Description of Requirement	Final Appeal Decision	Date of Response
08-23-85	J. T. Construction	Army	Construction	Denied	10-08-85
10-02-85	Roy Littlejohn & Associates	AID	Management consulting	Denied	10-17-85
07-08-85	Evanhow Construction Co.	VA	Construction	Denied	07-29-85
03-31-86	Federal Data Systems, Inc.	Air Force	Computer services	Pending	
03-11-86	AVW, Inc.	DOT	System, design & fabrication	Pending	
03-13-86	Zenon Construction	DOT	Road construction	denied	01-08-86
04-08-86	CP Construction	DOI	Construction	Pending	

Senator WEICKER. Let me ask you the same question. Is the Small Business Administration for or against the extension, and the reasons why, very briefly?

Mr. GONZALEZ. Thank you, Mr. Chairman. The Small Business Administration is against the bill to extend the Pilot Program. We believe that the Pilot Program has served its purpose. There is no longer a need to continue the Pilot Program. The benefits have been reaped, and as you can tell from the testimony being given by the contractors that came before us, those circumstances that existed then we feel no longer exist. We have a better 8(a) program that can continue to do the job without the Pilot Program.

Senator WEICKER. I don't want anybody in the room to be discouraged about the Small Business Administration's position on the matter of the Pilot Program; but I could ask Mr. Gonzalez—and this would be a very unfair question— I could ask Mr. Gonzalez whether the Small Business Administration is for the Small Business Administration. [Laughter.]

As I said, I appreciate that it's not of Mr. Gonzalez that I should ask the question.

However, I appreciate both of your statements. I would like, since these gentlemen have traveled some distance, to use the last 2 or 3 minutes that are available to me to ask them a few questions. Everything will be included in the record as to your positions. I very much appreciate it.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

Mr. SEYMOUR. Thank you very much, Mr. Chairman.

Senator WEICKER. Now, gentlemen, those who made up our first panel, if you could return?

Can each one of you, very briefly, starting with Mr. Robert Jones, respond to the points raised here? I am sure that you did include it in your statements, but please reemphasize to me why you feel you would disagree with the statement made that the Pilot Program can be accomplished within the confines of a regular 8(a) program.

What would be your response to that, Mr. Jones?

Mr. R. JONES. My response, sir, would be that from a practical regulatory point of view, if you look at the words, the gentleman from the SBA and DOT are correct. But as I mentioned before, even though ostensibly they have the power under the regular 8(a) program, it is the visibility of the Pilot Program that makes things successful. It is the fact of congressional oversight. It is the fact of the implied clubs from SBA, even if not utilized, but mainly the congressional oversight.

All of us have run into resistance on the Pilot Program, but there is always the fear that the visibility would cause more trouble than it's worth. I think it's because it puts teeth into it, because Congress is the true teeth. That's what it really boils down to.

Senator WEICKER. Dr. Wan.

Dr. WAN. The perception of the Federal agencies as well as the industries that the 8(a) programs are good for conventional technology, and the Pilot Program provides the opportunity for sophisticated type technology opportunities.

Senator WEICKER. What does your company do, Mr. Jones?

Mr. R. JONES. We are research, development, engineering, and manufacturing.

Senator WEICKER. And, yours, Dr. Wan?

Dr. WAN. Consulting engineers and research and development.

Senator WEICKER. Mr. Jones.

Mr. J. JONES. We're in the communications, command, and control systems.

Senator WEICKER. Mr. Ozuna.

Mr. OZUNA. Manufacture of control systems.

Senator WEICKER. Yes, I think the point made here is true. Usually, as I look upon 8(a) contracts, they are mainly for janitorial services and that type of work; but this is an exceptional group of enterprises here that clearly represents businesses which we haven't traditionally seen in the course of the 8(a) program.

Mr. Jones.

Mr. J. JONES. Mr. Chairman, I think that the gentleman from DOT stated it fairly the way I see it. It is true that many of the contracts may have been capable of being under the 8(a) program. And ours was different, and I think it was the one that was different of the group that has been set aside, you know, in that it was a major program within FAA that we were involved in, going over many, many years, and, you know, the visibility, the difficulty of trying to determine whether or not we were capable. Without these kinds of programs being there, that kind of pushes them to try to make these considerations, I think that they would not.

And let me say also, sir, that I agree with your statement that DOT probably has had the best Pilot Program that I have seen since the program has been in existence over the last several years. But they would not have gone through that much trouble. They would have just considered this a big business opportunity, and even though our company had been involved in this program many years and they had told me, hey, you can win this on your own, I knew better than that. I didn't believe that they would have awarded it.

Senator WEICKER. Mr. Ozuna.

Mr. OZUNA. I totally disagree with both gentlemen back there because I was told from the outset that there was no way possible that I could have been in the 8(a) or Pilot Program to start with. After spending 1½ years and approximately one-half of a million dollars toward being able to get this contract, I don't really think that there would be any way possible under the 8(a) program that I could have received a contract of this magnitude without that. And I just think that without this Pilot Program, it's going to be very, very difficult, especially for incoming 8(a) contractors, which I am.

I have only been in the program for about 1½ years, and it's been a very difficult situation. I have been in business for 20 years. I am not a new company. My primary concern has always been in the commercial industry. When I started doing business with the Government, I just found out that it was a different animal altogether, and without the support of that type of program, I don't think it's possible. Thank you.

Senator WEICKER. One last question to each one of you. Would you like to see—and I have to ask for the briefest of answers

here—would you like to see the Pilot Program expanded to another agency of Government, and if so, which agency? Mr. Ozuna.

Mr. OZUNA. I think it should stay in the Transportation because of the job that they've done. They are the only agency in the past—and I have to agree with Congressman Mitchell—that they have done a fairly good job in what they've done. And I think that they should extend it for an additional year or so until we get a better understanding of it.

Senator WEICKER. Mr. Jones.

Mr. J. JONES. Sir, I believe that although the DOT has done an outstanding job, I believe that it would probably be better to go to an agency that has a lot more money, such as the Air Force.

Senator WEICKER. Dr. Wan.

Dr. WAN. I feel that the program should stay with the DOT because they have done a great job. They took the program very seriously.

Senator WEICKER. And Mr. Jones.

Mr. R. JONES. We are split. [Laughter.]

My opinion is that even though DOT has done a good job, if you look at the implementation of the NAS program, most of the requirements and procurements in the high technology field have been let. The vast majority of the dollars in the upcoming year are in the Department of Defense. So it's my opinion that though they have done a good job, it's not a slap in the face of DOT. I think DOT would be glad to get rid of the program. But the Department of Defense is where most of the dollars will be. So it should be where the most opportunities are, because that's where the dollars are.

Senator WEICKER. Gentlemen, I thank you very much for your testimony, and it will be read carefully by the committee in its entirety. Thank you for making the effort to be here, and I can assure you that the committee will do everything it can to see that the program is continued. Again, thank you very much.

Mr. R. JONES. Thank you, Mr. Chairman.

Mr. OZUNA. Thank you.

Mr. J. JONES. Thank you, sir.

[Whereupon, at 10:20 p.m., the committee was adjourned.]

APPENDIX

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS
806 15th Street, N.W. • Suite 340 • Washington, D.C. 20005 • (202) 347-8259

TESTIMONY BY

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS

PRESENTED TO

U.S. SENATE

COMMITTEE ON SMALL BUSINESS

ON THE

SURETY BOND WAIVER PILOT PROGRAM

&

SBA/DOT PILOT PROGRAM

MARCH 27, 1986

RALPH C. THOMAS, III
EXECUTIVE DIRECTOR

JAMES A. FREEMAN
PRESIDENT

MR. CHAIRMAN, MY NAME IS RALPH C. THOMAS, III, AND I AM THE EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF MINORITY CONTRACTORS (NAMC). NAMC IS A FULL SERVICE, NON-PROFIT MINORITY BUSINESS TRADE ASSOCIATION, ESTABLISHED IN 1969 TO ADDRESS THE NEEDS AND CONCERNS OF MINORITY CONSTRUCTION CONTRACTORS NATIONWIDE.

CURRENTLY, NAMC'S MEMBERSHIP BASE COVERS 40 STATES, THE DISTRICT OF COLUMBIA AND THE VIRGIN ISLANDS. WE ARE HEADQUARTERED IN WASHINGTON, D.C. NAMC MEMBERS INCLUDE GENERAL CONTRACTORS, SUBCONTRACTORS, CONSTRUCTION MANAGERS, MANUFACTURERS, SUPPLIERS, LOCAL MINORITY CONTRACTOR ASSOCIATIONS AND FUNDED TECHNICAL ASSISTANCE ORGANIZATIONS. OF OUR ACTIVE 2,500 MEMBERS, APPROXIMATELY 10 PERCENT OR 250 ARE 8(a) FIRMS.

NAMC FULLY SUPPORTS THE PASSAGE OF H.R. 2787 WHICH IS A BILL TO EXTEND THROUGH FISCAL YEAR 1988 THE SBA PILOT PROGRAMS UNDER SECTION 8 OF THE SMALL BUSINESS ACT. THESE PILOT PROGRAMS GO MUCH FURTHER THAN THE REGULAR 8(a) PROGRAM. GENERALLY, UNDER THE 8(a) PROGRAM THE FEDERAL AGENCIES HAVE FINAL AUTHORITY ON WHICH CONTRACTS TO SELECT FOR THE PROGRAM. UNDER THE PILOT PROGRAM, HOWEVER, THE SMALL BUSINESS ADMINISTRATION (SBA) MAY UNILATERALLY SELECT FROM AN AGENCY, IN THIS CASE THE DEPARTMENT OF TRANSPORTATION (DOT), ANY CONTRACT FOR USE IN THE 8(a) PROGRAM. THE GREATEST BENEFIT TO THE PARTICULAR 8(a) COMPANY INVOLVED, HOWEVER, IS THAT THE CONTRACT SELECTED MUST HAVE HIGH-DOLLAR VALUE, OR HIGH-DOLLAR VALUE POTENTIAL OR SUBSTANTIAL GROWTH POTENTIAL. MOREOVER, THE SELECTED CONTRACTS WOULD BE THOSE NOT OTHERWISE OFFERED BY DOT UNDER THE 8(a) PROGRAM.

ANOTHER INTERESTING FEATURE UNDER THIS BILL IS THE SURETY BOND WAIVER PILOT PROGRAM. THIS ALLOWS THE SBA, UNDER CERTAIN CIRCUMSTANCES, TO WAIVE FEDERAL BONDING REQUIREMENTS FOR CONTRACTS AWARDED THROUGH THE 8(a) PROGRAM.

MR. CHAIRMAN, IF PROPERLY AND AMBITIOUSLY IMPLEMENTED, THIS BILL WOULD GO FAR TOWARD DEVELOPING MINORITY BUSINESSES AND EXPANDING THEIR PERFORMANCE CAPACITIES. AS MINORITY BUSINESSES DEVELOP AND GROW UNDER THIS BILL, SO TOO WILL EMPLOYMENT OPPORTUNITIES FOR MINORITIES.

ANALYSTS AT THE DEPARTMENT OF COMMERCE HAVE ESTIMATED THAT MINORITY-OWNED BUSINESSES PROVIDE JOBS TO AN ESTIMATED 1,081,095 PERSONS. THIS FIGURE EXCEEDS THE TOTAL EMPLOYMENT OF THE 19 LARGEST U.S. OIL COMPANIES. IT MORE THAN DOUBLES THE COMBINED EMPLOYMENT OF THE SIX LARGEST U.S. STEEL MANUFACTURERS. IT IS 80 PERCENT GREATER THAN THE TOTAL EMPLOYMENT OF THE FORD MOTOR COMPANY, CHRYSLER CORPORATION, AND AMERICAN MOTORS. SUCH FIGURE ALSO EXCEEDS THE COMBINED WORK FORCES OF ITT, IBM, BOEING AND ROCKWELL INTERNATIONAL.

MR. CHAIRMAN, MINORITY-OWNED ENTERPRISES HAVE BEEN EXPANDING AS RAPIDLY AS IN THE NON-MINORITY SECTOR. BETWEEN THE 1972 AND 1977 CENSUS, TOTAL EMPLOYMENT BY MINORITY ENTREPRENEURS GREW BY A COMPOUND ANNUAL RATE OF 3.89 PERCENT. THE COMPARABLE GROWTH RATE FOR ALL PRIVATE NON-AGRICULTURAL GROWTH WAS 3.83 PERCENT. BETWEEN 1977 AND 1980 THE NUMBER OF JOBS PROVIDED BY MINORITY-OWNED FIRMS GREW BY AN ESTIMATED 4.20 PERCENT, WHICH EQUALLED THE NATIONAL AVERAGE.

DURING THE 1980'S, MR. CHAIRMAN, THE IMPORTANCE OF MINORITY-OWNED BUSINESSES AS EMPLOYERS WILL UNDOUBTEDLY INCREASE. THE BUREAU OF LABOR STATISTICS ESTIMATES THAT DURING THE 1980'S, TOTAL EMPLOYMENT IN THE GOODS-PRODUCING SECTOR IS PROJECTED TO GROW BY 5 TO 7 MILLION PERSONS, AND WILL GROW BY ABOUT 20 MILLION IN THE NON-GOODS PRODUCING INDUSTRIES, IN WHICH MOST MINORITY-OWNED COMPANIES ARE BASED.

MR. CHAIRMAN, IN ORDER FOR MINORITY COMPANIES TO MEET THIS GROWTH IN EMPLOYMENT DEMAND, THEY MUST BE GIVEN A CHANCE TO GROW. HOUSE BILL H.R. 2787 IS ONE VEHICLE WHICH WILL GIVE MINORITY COMPANIES THAT GROWTH POTENTIAL FOR AT LEAST THE NEXT TWO YEARS.

I MUST ALSO POINT OUT MR. CHAIRMAN, THAT IF MINORITY-OWNED COMPANIES ARE NOT GIVEN THE OPPORTUNITY TO EXPAND IN ORDER TO MEET THE PROJECTED EMPLOYMENT DEMAND, THE COUNTRY AS A WHOLE WOULD SUFFER IN THAT THE GOVERNMENT WOULD BE FORCED TO PAY HUNDREDS OF MILLIONS OF DOLLARS IN UNEMPLOYMENT BENEFITS TO THOSE PERSONS NEEDING JOBS BUT UNABLE TO FIND THEM IN THE PUBLIC OR NON-MINORITY PRIVATE SECTOR.

WE SUBMIT, MR. CHAIRMAN, THAT IT IS MUCH BETTER TO HAVE WELL-SUSTAINED MINORITY-OWNED COMPANIES PROVIDING EMPLOYMENT AND CONTRIBUTING TO FEDERAL, STATE AND LOCAL TAX REVENUES THAN HAVING THESE SAME COMPANIES FACE STAGNATION OR COLLAPSE BECAUSE OF A LACK OF AN OUTLET OR OPPORTUNITY FOR GROWTH.

YET, MR. CHAIRMAN, THERE EXISTS AN EVEN GREATER REASON FOR PASSAGE OF THIS BILL. IN A CLIMATE IN WHICH PROGRAMS THAT ASSIST IN THE

DEVELOPMENT AND GROWTH OF MINORITY-OWNED COMPANIES ARE BEING ATTACKED FROM EVERY QUARTER, WE FEEL THAT IS IMPORTANT AT THIS TIME FOR CONGRESS TO SEND OUT A MESSAGE REAFFIRMING ITS COMMITMENT TO PROGRAMS THAT ASSURE MEANINGFUL MINORITY BUSINESS PARTICIPATION IN THE AMERICAN ECONOMY.

MR. CHAIRMAN, IT IS INDEED DISHEARTENING WHEN ORGANIZATIONS SUCH AS NAMC MUST CONTINUALLY PLEAD (WHETHER IN THE COURTS OR IN CONGRESS) FOR THE MAINTENANCE OF PROGRAMS, SUCH AS THOSE CONTAINED IN H.R. 2787, WHICH SHOULD IDEALLY BE ONLY THE FIRST STEP IN FULFILLING A LARGER COMMITMENT TO REPAIR THE DISADVANTAGED POSITION OF MINORITY-OWNED COMPANIES IN THE AMERICAN BUSINESS MARKETPLACE. THIS SHOULD BE ESPECIALLY TRUE WHEN THE UNITED STATES CONGRESS HAS ALREADY MADE A FINDING THAT THERE EXISTS IN THIS COUNTRY A CORRELATION BETWEEN ETHNICITY AND SOCIAL AND ECONOMIC DISADVANTAGE. THE CONGRESS HAS ALSO FOUND THAT IT IS IN THE NATIONAL INTEREST TO EXPEDITIOUSLY AMELIORATE THIS SITUATION IN ORDER TO OBTAIN BOTH SOCIAL AND ECONOMIC EQUALITY AND TO IMPROVE THE FUNCTIONING OF OUR ECONOMY.

MR. CHAIRMAN, IT IS TIME FOR ALL OF US WHO ARE SERIOUSLY COMMITTED TO EQUAL OPPORTUNITY FOR MINORITY-OWNED COMPANIES TO MOVE BEYOND REACTING TO FRIVOLOUS AND TIME-CONSUMING ARGUMENTS ABOUT SOME ABSURD CONCEPT KNOWN AS "THE DISCRIMINATORY IMPACT OF SPECIAL PREFERENCE PROGRAMS" AND INSTEAD FOCUS OUR ATTENTION ON EFFECTIVE ENFORCEMENT AND PROPER IMPLEMENTATION OF THE EXISTING PROGRAMS FOR MINORITY BUSINESSES.

IT IS IMPORTANT, MR. CHAIRMAN, THAT CONGRESS SEND OUT A STRONG MESSAGE, NOT ONLY TO THOSE FORCES COMMITTED TO THE DISMANTLING AND ELIMINATION OF ANY PROGRAM AIMED AT ASSISTING MINORITY BUSINESSES, BUT, MORE IMPORTANTLY, TO THOSE PEOPLE IN THE BUSINESS COMMUNITY WHO GENERALLY AGREE WITH THIS COUNTRY'S COMMITMENT TO ECONOMIC PARITY FOR MINORITY BUSINESSES, BUT WHO HAVE BEEN CONFUSED BY THE RECENT ATTEMPTS OF SOME TO DISCREDIT SUCH PROGRAMS THROUGH THE MEDIA.

NAMC CALLS UPON ALL ADVOCATES OF EQUAL OPPORTUNITY FOR MINORITY BUSINESSES TO NOT ONLY SUPPORT THE EXTENSION OF THIS BILL BUT TO ALSO WORK HARD TO ASSURE ITS MAXIMUM EFFECTIVENESS OVER THE NEXT TWO YEARS.

MR. CHAIRMAN, NAMC INTENDS TO WORK CLOSELY WITH THE DEPARTMENT OF TRANSPORTATION AND THE SMALL BUSINESS ADMINISTRATION AT ALL STAGES OF THE SELECTION AND MATCHING PROCESS TO ENSURE AN INCREASE OF CONTRACTS AWARDED TO 8(a) COMPANIES UNDER H.R. 2787'S PILOT PROGRAMS.

THIS CONCLUDES MY TESTIMONY. THANK YOU MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE.